

# Program Evaluation

## Habitat Management

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.

In June 2015, the EQC allocated 272 hours of staff time to evaluate six programs within the DFWP Wildlife Division. In September 2015, the EQC began with Wildlife Conflict Management followed by Hunting Access and Nongame, Threatened, and Endangered Species in January 2016. In this report, the EQC reviews Habitat Management.

Habitat is “home” for all wildlife and according to the DFWP is the key to wildlife management. The Wildlife Division identifies three major components of its Habitat Management: administration, including acquisition, operations and maintenance, and providing technical assistance to outside entities.

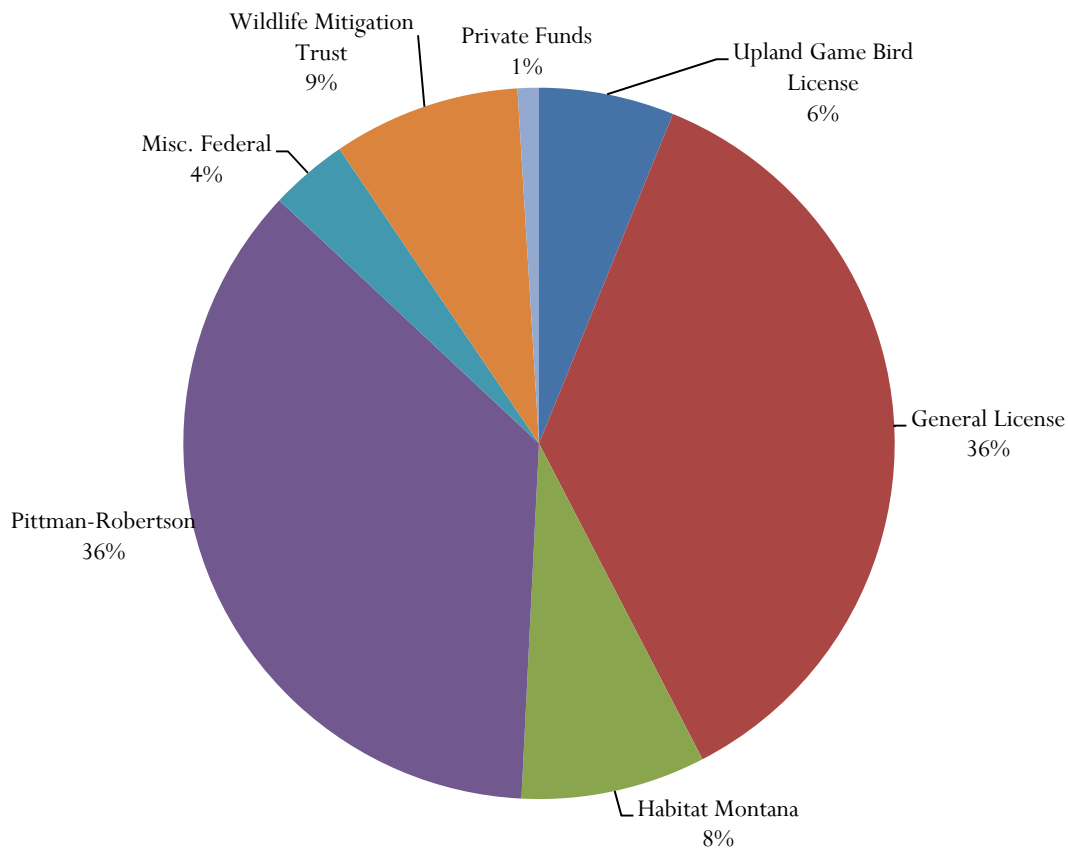
In its 2008 strategic plan, the DFWP set the following goals for wildlife habitat conservation:

- Perpetuate and protect habitats at the ecosystem level;
- Ensure adequate habitat to keep common species common, enable recreational opportunity, and provide critical habitat components for all species;
- Manage DFWP lands to benefit the health and diversity of plant communities and associated wildlife species;
- Cooperatively conserve and enhance habitat on private, state, and federal land; and
- Increase coordination and cooperation with the Fisheries Division toward conservation and management of riparian and wetland habitats.

## Financial Snapshot

Wildlife habitat management is funded largely by license fees, Habitat Montana funds, federal Pittman-Robertson funds, and the Wildlife Mitigation Trust. In Fiscal Year 2015, the Wildlife Division attributed \$2.67 million in expenses to habitat management using funds appropriated by House Bill No. 2 (2013). As with other DFWP program evaluations, this is a best estimate of expenditures, since employee time spent on habitat management is not necessarily coded that way.

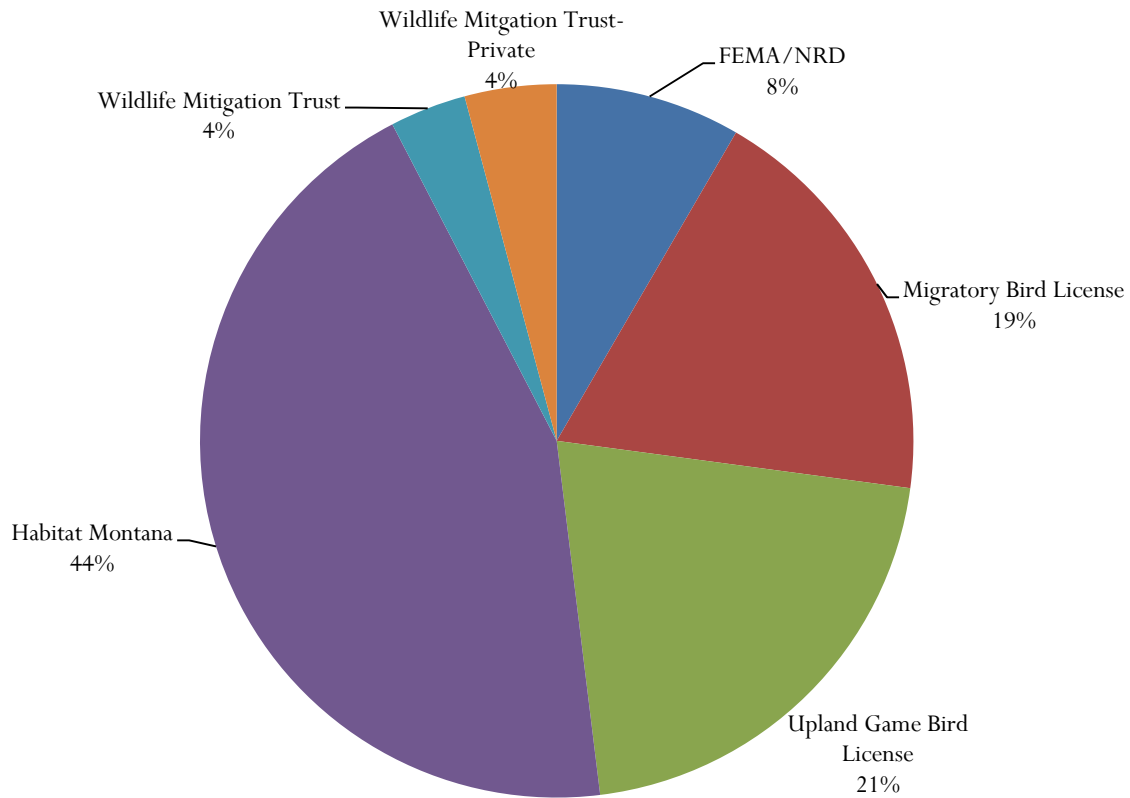
### Wildlife Habitat Management Funding Sources, HB 2 \$2.67 million, FY 2015



Of the HB 2 expenditures, personal services accounted for \$1.89 million or 70.8%. The remaining \$777,600 was used for operating expenses. The Wildlife Division attributes 28.53 FTE specifically to habitat management. Most of those (17.74 FTE) are dedicated to Wildlife Management Areas (WMAs). WMA costs totaled \$1.53 million or 57.5% of the HB 2 expenditures.

From House Bill No. 5 appropriations, the Wildlife Division spent \$830,863 in Fiscal Year 2015 on habitat capital projects. This includes fencing, road and parking improvements, forest management, cultural evaluations, grazing improvements, and power, septic, and sewer work. Not all capital projects occurred on DFWP land; those related to the Upland Game Bird Enhancement Program, for instance, were on private land.

## Wildlife Habitat Capital Project Funding Sources, HB 5 \$830,863, FY 2015



As for acquisitions, the Wildlife Division spent \$6,559,000 in Fiscal Year 2015 to acquire two conservation easements and four fee title additions to WMAs. A complete list is provided in Appendix A.

In 2015, House Bill No. 403 authorized the use of the following funds for the purposes of land leasing, easement purchase, or development agreements. The funds are restricted from land purchases except in cases where the DFWP was already negotiating the purchase.

\$10,668,000	Habitat Montana
\$460,000	Mountain sheep habitat

Meanwhile, the 2015 Legislature appropriated the following funds in HB 403 for capital improvements to wildlife habitat in the FY 2016/2017 biennium:

\$845,000	Migratory Bird Program
\$849,000	Upland Game Bird Program
\$1,234,000	Wildlife Habitat Maintenance

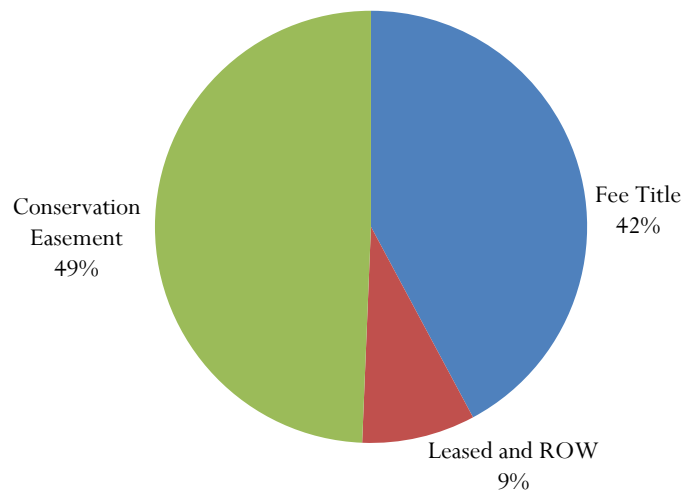
## Habitat Administration

In addition to managing wildlife populations, the DFWP and the Fish and Wildlife Commission are responsible for maintaining and enhancing habitat to ensure the protection, preservation, and propagation of wildlife species.

As of January 25, 2016, the DFWP had an interest in 985,132 acres of land. This includes fee title, leased land, rights-of-way, and conservation easements. Almost 90% of these acres are wildlife habitat, 4% are state parks, and 5% are held for fisheries.

As shown in the chart below, about half of the acres classified as wildlife habitat are under conservation easements. These figures do not include land enrolled in the Wildlife Division's Montana Sagebrush Initiative Program. Based on 30-year agreements with landowners to conserve sagebrush habitat, that program covers 32 properties and totals 197,891 acres.

### DFWP Wildlife Habitat Sites by Type 884,744 Acres



Between 1911 and 1936, the state of Montana established 46 "preserves", starting with the Snow Creek, Pryor Mountain, and Gallatin preserves in 1911, to protect wildlife populations from hunting and human harassment.<sup>1</sup>

Acquisition of land by the then-Fish and Game Department for the purpose of wildlife conservation and public access dates back to a purchase at Red Rocks Lake in 1915.<sup>2</sup> The state's first major acquisition for big game habitat was completed in 1940 with the Judith River Game Range, now known as the Judith River WMA.<sup>3</sup>

<sup>1</sup> Montana Fish & Wildlife Conservation Strategy, Department of Fish, Wildlife, and Parks, 2005, page 17.

<sup>2</sup> House Fish & Game Committee Minutes, Jim Flynn Testimony, February 17, 1987.

<sup>3</sup> Ibid.

## Legislative History

The Legislature enacted 87-1-209, MCA, in 1973,<sup>4</sup> authorizing the Fish and Game Commission to acquire habitat by purchase, condemnation, lease, agreement, gift, or devise or to acquire easements upon that land. Now, proposals must receive preliminary and final approval by the Fish and Wildlife Commission and approval from the State Land Board.

In 1987, the Legislature conditioned the Commission's authority with House Bill No. 526, by requiring the Commission to adopt rules establishing a policy for habitat acquisitions before making them. The law<sup>5</sup>, which was amended in 1989<sup>6</sup>, requires the policy to provide a comprehensive analysis of:

- the wildlife populations and use currently associated with the property;
- the potential value of the land for protection, preservation, and propagation of wildlife;
- management goals proposed for the land and wildlife populations, and where feasible, any additional uses of the land such as livestock grazing or timber harvest;
- any potential impacts to adjacent private land resulting from proposed management goals, and plans to address such impacts;
- any significant potential social and economic impacts to affected local governments and the state;
- a land maintenance program to control weeds and maintain roads and fences; and
- any other matter considered necessary or appropriate by the commission.

Attached to HB 526 was a statement of intent that said while leases or conservation easements are preferable for acquiring interest in land, a willing seller would determine the manner in which the interest is obtained, including fee title. The language was seen as a compromise in the debate that session between those who saw habitat as the foundation for the future and those who did not want the department to buy land.<sup>7</sup>

The statement of intent also directed the DFWP to identify habitat needs by administrative region, compile a statewide acquisition plan, and ensure that acquisitions are reasonably distributed geographically.

## Habitat Montana

In addition to establishing acquisition policy, HB 526 also provided the first dedicated funding source by earmarking what has added up to millions of dollars of hunting license revenue in the ensuing years to secure, develop, and maintain wildlife habitat. Known as "Habitat Montana", this program dedicated 80% of the set aside revenue to secure wildlife habitat. The rest was for its development and maintenance.

HB 526 increased fees for the resident Class AAA combination sports license and nonresident Class B-10 big game combination, antelope, moose, mountain goat, mountain

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<sup>4</sup> En. 26-104.6 by Sec. 7, Ch. 511, L. 1973.

<sup>5</sup> 87-1-241, MCA.

<sup>6</sup> House Bill No. 720, 1989.

<sup>7</sup> Habitat Montana Report to the 64<sup>th</sup> Legislature, Montana Fish, Wildlife, and Parks Wildlife Division, January 2015, page 5.

sheep, mountain lion, black bear, and wild turkey licenses to support the program. Approximately 92% of the revenue for Habitat Montana comes from nonresident licenses.<sup>8</sup>

HB 526 initially terminated in 1994, but was extended by the Legislature in 1991 and 1993 and made permanent in 2005.

As stated in rules<sup>9</sup> adopted by the Fish, Wildlife, and Parks Commission in 1994, its mission is to use Habitat Montana to “establish a statewide wildlife habitat system which will conserve our wildlife resources and pass them intact to future generations.”

The program’s goals include:<sup>10</sup>

- maintaining wildlife population levels that sustain or enhance current recreational opportunities;
- maintaining diverse geographic distribution of wildlife populations and their habitats;
- conserving Montana's land and water resources in adequate quantity and quality to sustain ecological systems; and
- implementing habitat management systems that are compatible with and minimize conflicts between wildlife and traditional agricultural, economic, and cultural values.

Pursuant to 12.9.512, ARM, the DFWP must conduct an environmental assessment that meets the analysis requirements of 87-1-241, MCA, before acquiring an interest in wildlife habitat. The rule also recognizes the statement of intent attached to HB 526, expressing preference for acquisition through conservation easements or leases. The rule states the most effective use of capital and operational funds must be determined on a case-by-case basis.

In addition to acquisitions made using Habitat Montana funds, 12.9.511, ARM, directs the DFWP to apply the program’s rules, where appropriate, to all wildlife habitat acquisitions.

As of December 2014, the DFWP used approximately \$28.2 million in Habitat Montana funds to acquire 49 wildlife conservation easements covering 238,695 acres. Fee title ownership purchased through the program totaled 117,868 acres for \$42.9 million. In all, 62% of the Habitat Montana projects by area are easements, 31% fee title, and 7% lease.<sup>11</sup>

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<sup>8</sup> Ibid.

<sup>9</sup> 12.9.508, ARM, et seq.

<sup>10</sup> 12.9.509, ARM.

<sup>11</sup> Habitat Montana Report to the 64<sup>th</sup> Legislature, Montana Fish, Wildlife, and Parks Wildlife Division, January 2015, page 4.



## Other Acquisition Funding Sources

In addition to Habitat Montana, the DFWP uses several other funding sources to acquire habitat.

### Access Montana

Access Montana was an initiative of Governor Brian Schweitzer, who requested \$15,000,000 for acquisitions by the DFWP. The Legislature appropriated \$10,000,000 in general fund money in House Bill No. 4 during its special session in May 2007. Primarily used for state park and waterfront sites, Access Montana contributed to the acquisition of the 7,270-acre Marias River WMA and portions of the Yellowstone, North Shore, and Fish Creek WMAs.

### License Auction Revenue

Since 1985, the Legislature authorized the competitive auction of one hunting license for each of the following species: mountain sheep, moose, mountain goat, mule deer, and elk. The successful bidder may use the license in any hunting district.

Interest is high, especially for mountain sheep. That license went for \$432,000 in 2013. Since 1997, the average price paid was \$209,132 for a grand total of \$3,973,500.

The other species generate much less. Moose license auctions average \$17,200 per year; mule deer \$13,750; elk \$22,980; and mountain goat \$14,000.

The DFWP must use the proceeds of the auction (minus up to 10% for auction expenses) for the substantial benefit of each species. As a general rule of thumb, the DFWP tries to allocate 50% of the auction revenue to habitat work. This is particularly effective for mountain sheep, because that auction generates so much money. The DFWP used some of the deer auction proceeds to buy an 80-acre addition to the Beckman WMA near Denton where there is substantial mule deer habitat. But for the other species, the DFWP says the revenue is more effectively saved up for other types of projects.

### Landowner Contributions

Landowners routinely contribute to acquisitions, often by donating a percentage of the appraised value of a property. A total of \$34.9 million in landowner donations were part of the financial package for 61 wildlife habitat acquisitions.

### Partner Funding

Conservation organizations often partner with the DFWP to protect habitat by funding easements and acquisitions and helping to enhance privately owned habitat.

Partners include: The Nature Conservancy, The Trust for Public Land, Vital Ground, Pheasants Forever, The National Wild Turkey Federation, Mule Deer Foundation, Trout Unlimited, Safari Club International, The Conservation Fund, The Confederated Salish-Kootenai Tribes, The Blackfoot Challenge, Montana Wildlife Federation, Northwestern Energy, PPL-Montana, Butte Skyline Sportsmen's Club, Anaconda Sportsmen, Montana Audubon, the Five Valleys, Rock Creek, and Flathead Land Trusts, and a variety of other organizations.

### **Migratory Bird Wetland Program**

The Migratory Bird Wetland Program, which primarily focuses on wetland creation, restoration, and enhancement, as discussed on page 26, also helps pay for conservation easements and fee-title acquisitions. Revenue comes from the sale of Montana's migratory game bird license at a cost of \$6.50 to residents and \$50 to nonresidents.

A total of \$874,850 in MBWP funds were used for six acquisitions. To be considered, acquisition projects should include more than 5% wetlands. Grasslands associated with wetlands can be considered if they are within 1-2 miles (or beyond if there is biological justification) because they can provide important nesting habitat and maintain wetland function.<sup>12</sup> Projects often also contain some restoration and enhancement activities, such as grazing and noxious weed management.

### **Wildlife Mitigation Trust**

The Wildlife Mitigation Trust is the funding arm of an agreement between the state and the Bonneville Power Administration (BPA) to protect, mitigate, and enhance wildlife and wildlife habitat affected by the construction of the Libby and Hungry Horse Dams. In 1988, the state and the BPA entered into a 60-year agreement that resulted in \$13 million deposited by BPA into the trust.

Since 1991, \$14.8 million was spent from the trust. Of that, \$6 million went to the acquisition of wildlife habitat, including two conservation easements, two wildlife habitat protection areas, and two WMAs.

### **North American Wetlands Conservation Act**

Enacted by Congress in 1989, The North American Wetlands Conservation Act (NAWCA) supports activities under the North American Waterfowl Management Plan, an international agreement aimed at providing long-term protection of wetlands and associated uplands. Projects in the U.S., Canada, and Mexico are eligible for the funding, which comes from appropriations, fines, penalties, forfeitures, and interest accrued on the fund.<sup>13</sup>

NAWCA requires a 1:1 funding match. In Montana, \$26.3 million in NAWCA funds contributed to 38 projects conserving almost 350,000 acres. Partners contributed another \$112.4 million.

### **Pittman-Robertson Wildlife Restoration Grants**

The Pittman-Robertson (P-R) Federal Aid in Wildlife Restoration Act was enacted in 1937. It took revenue from a preexisting excise tax on firearms and ammunition to provide grants to state, commonwealth, and territorial fish and wildlife agencies to restore, conserve, manage, and enhance wild birds and mammals and their habitat.

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<sup>12</sup> Montana's Migratory Bird Wetland Program: A Guide for Identifying and Establishing Quality Wetland Projects, Montana Department of Fish, Wildlife, and Parks, January 2015, page 9.

<sup>13</sup> <http://www.fws.gov/birds/grants/north-american-wetland-conservation-act.php>, February 4, 2016.

Current-day P-R funding is generated by an excise tax on the sale of bows, arrows, archery equipment, sporting firearms, ammunition, handguns, pistols, and revolvers.

P-R funds are annually apportioned according to a formula based largely on the land area of a state and its number of hunting license holders. The funding can be used in a variety of ways for wildlife habitat including:

- research on habitat management;
- acquiring real property suitable or capable of being made suitable for wildlife habitat;
- restoring, rehabilitating, improving, or managing habitat; and
- maintaining habitat acquired with P-R funds.

Since inception, \$21.5 million in P-R funds were used to acquire 31 wildlife conservation easements or WMAs.

### Land and Water Conservation Fund

In 1965, Congress established the Land and Water Conservation Fund (LWCF) to provide matching grants to states and local governments for the acquisition and development of public outdoor recreation areas and facilities, as well as funding for shared land acquisition and conservation strategies.

The LWCF is funded with revenue from the disposal of federal surplus property, certain user fees, and a portion of the federal royalties from offshore oil and gas production. The maximum that can be appropriated in any one year is \$900 million.

After much debate in 2015, Congress reauthorized the LWCF for 3 years, appropriating \$450 million to the program in 2016.

A total of \$2.1 million in LWCF funds were used to help acquire seven WMAs, including Ninepipe, Aunt Molly, Warm Springs, Mt. Haggin, Elk Island, Isaac Homestead, and Seven Sisters.

### Forest Legacy Program

The Forest Legacy Program (FLP) uses LWCF funding to provide federal grants to states for conservation of important forests threatened with conversion to nonforest uses. It is a “working forests” program that emphasizes water quality, habitat, forest products, recreation, and other public benefits.

The FLP has existed in some form since 1990; Montana first started working with it in 2001. Since then, the FLP contributed \$32.47 million to 10 conservation easements here totaling 192,000 acres. In addition, the FLP paid \$19.85 million toward seven fee title purchases totaling 16,800 acres.

The DFWP was recently awarded FLP funding for three additional projects:

- the 7,150-acre Trumbull Creek conservation easement on land owned by F.H. Stoltze Land & Lumber Co. The project cost is \$9.5 million total with \$6.5 million expected from the FLP, \$2 million from the U.S. Fish and Wildlife Service’s Habitat

Conservation Plan (HCP) Land Acquisition Program, and \$1 million in private donations. The deal is expected to close later this year.

- the 3,020 acre Haskill Basin Watershed conservation easement on land also owned by Stoltze, for which \$7 million in FLP funding is committed. In addition to wildlife habitat, the property provides more than 80% of the water supply for Whitefish. The city is contributing \$7.7 million, while the HCP will provide \$2 million. Stoltze is donating \$3.9 million in value. The project was approved by the State Land Board in December 2015 and scheduled to close in February.
- the 760-acre Clear Creek Addition to the Nevada Lake WMA. FLP funds are paying for 75% (\$562,500); the other 25% of the property's value is being matched by its current owners and The Nature Conservancy. The State Land Board approved the agreement in January 2016; it is scheduled to close this Spring.

### Landowner Incentive Program

In 2003, the DFWP was awarded a Landowner Incentive Program (LIP) grant from the U.S. Fish and Wildlife Service (USFWS) to fund the Montana Sagebrush Initiative. The program established 30-year lease agreements on private lands to conserve high priority sage-grouse habitats. Leases were funded using a 50/50 mix of Upland Game Bird Enhancement Program and LIP grant dollars. LIP funds come from the LWCF.

A total of 197,891 acres of habitat on 32 properties were enrolled in Montana from 2003-2006. The standard (one-time) payment for the leases was \$12/acre for a total cost of \$2.37 million.

In addition to restrictions against plowing, burning, or otherwise killing sagebrush and other native vegetation, these leases provide limited access for upland game bird hunting.

### Habitat Conservation Plan Land Acquisition Program

Congress established the Habitat Conservation Plan (HCP) Land Acquisition Program in Fiscal Year 1997. It is intended to reduce conflict between the conservation of listed (endangered, threatened) species and land uses in the species' habitat.

Administered by the USFWS, grants are awarded to states for land acquisition in areas with an approved HCP. Montana has two HCPs that govern activities such as timber harvest, roads, and grazing in western portions of the state to conserve grizzly bear, lynx, bull, westslope cutthroat, and Columbia redband trout, and mountain and pygmy whitefish.

As discussed earlier, Montana received two HCP grants worth \$2 million each to assist in the purchase of the Haskill Basin and Trumbull Creek conservation easements in Northwest Montana. In addition, \$27 million in HCP funds helped purchase the Kootenai Valleys and Thompson-Fisher conservation easements and the Bull River, Blackfoot-Clearwater, and Marshall Creek WMAs.

### **Natural Resource Damage Program**

The Montana Natural Resource Damage Program (NRDP) was created in 1990 for injuries caused by mining and mineral processing in and around Butte and Anaconda to natural resources in the Upper Clark Fork River Basin.

The state settled a lawsuit with the Atlantic Richfield Co. that earmarked \$130 million to restore or replace injured resources. Of the interest earned on the account, \$24.6 million was used to help acquire the Manley Ranch conservation easement and the Blue Eyed Nellie, Garrity Mountain, Spotted Dog, Stucky Ridge, and Mt. Haggin WMAs.

### **Montana Fish and Wildlife Conservation Trust**

Congress established the Montana Fish & Wildlife Conservation Trust in 1998 using proceeds from the sale of cabin sites on Canyon Ferry Reservoir east of Helena that previously were leased from the federal government. The trust provides a permanent source of grant funding for the acquisition of publicly accessible land to restore and conserve habitat, among other purposes.

The initial value of the trust was \$14.9 million in 2004. As of December 31, 2015, the trust grew to \$21.6 million. Grants to date include \$4.4 million inside the Missouri River Watershed and \$3.8 million across the rest of the state.<sup>14</sup>

The trust contributed to the acquisitions of the Kootenai Valleys, Chokecherry Bend, Cottonwood Bend, and Lower Beaver Creek conservation easements and the Blackfoot-Clearwater, Garrity Mountain, Marshall Creek, and Canyon Creek WMAs.

### **Agricultural Land Easements**

Agricultural Land Easements (ALE) are administered by the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS). The program helps farmers and ranchers keep their land in agriculture by providing financial assistance for easements that protect the agricultural use and conservation values. This includes grazing uses and conserving rangeland, pastureland, and shrubland.

Under ALE, NRCS may contribute up to 50% of the fair market value of an easement. In cases of grassland that have special environmental significance, 75% may be contributed. In Montana, grasslands of special significance include core areas of sage grouse habitat.

The DFWP has not yet received ALE funding, but expects to under the NRCS's Sage Grouse Initiative in the coming years.

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<sup>14</sup> <http://mtconservationtrust.org/>, February 8, 2016.

## Making Acquisitions

In 1994, the DFWP completed a Statewide Habitat Plan, which dictates the policies, procedures, and overarching priorities for habitat conservation. The administrative regions unanimously identified intermountain grassland, riparian/wetland, and shrub-grassland (sagebrush) as the habitats most in need of attention.<sup>15</sup>

Intermountain grasslands are choice locations for residential development, which can disrupt winter range and affect wildlife movement and migration. Many species depend on riparian habitat, which is highly productive but comprises less than 4% of the state.<sup>16</sup>

The Statewide Habitat Plan aimed to conserve approximately 10% of each of the three priority ecosystems. The 2005 Montana Fish and Wildlife Conservation Strategy and the 2015 State Wildlife Action Plan (SWAP) provided a more focused look at how these priority habitats are distributed in the state and what wildlife species are associated with them.

The 2015 SWAP identifies three broad actions for terrestrial habitat protection:<sup>17</sup>

- Continue to utilize Habitat Montana and other funding sources to conserve high priority habitat in greatest need of conservation through fee title acquisitions and conservation easements.
- Work with willing landowners, agencies, and organizations to purchase land or acquire conservation easements that support species in greatest need of conservation to provide access to resources, prevent further habitat fragmentation, and preserve natural habitat functions.
- Work with partners to provide large, connected habitat patches across the state that are resilient and adaptable to existing impacts and future threats.

The SWAP identified specific impacts and threats to terrestrial habitat as well:<sup>18</sup>

- Fragmentation, including housing/subdivision development, highway, powerline, and utility corridors, train and vehicle traffic, and development of inholdings;
- Pollution/contamination of resources, including coal, oil, gas, coal bed methane, and bentonite exploration and extraction, mine contamination, urban runoff, superfund sites, and new hard rock mines;
- Land management, such as incompatible grazing practices, altered fire regime, conflicting policies, wetland draining, loss of native vegetation and low regeneration, inefficient agricultural practices, loss of riparian habitat due to bank destabilization, and peat mining;
- Wind energy, including habitat fragmentation and direct species mortality;
- Recreation, including motorized use, illegal watercraft and OHV use, and ski area expansion;
- Climate change;

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<sup>15</sup> Habitat Montana Report to the 64<sup>th</sup> Legislature, Montana Fish, Wildlife, and Parks Wildlife Division, January 2015, page 7.

<sup>16</sup> Ibid.

<sup>17</sup> Montana's State Wildlife Action Plan 2015, Montana Fish, Wildlife, and Parks, January 9, 2015, page 60.

<sup>18</sup> Ibid, pages 60-64.

- Land use change, including conversion to cropland, removal of keystone species, and loss of acres enrolled in the federal Conservation Reserve Program; and
- Invasive species, including aquatic nuisance species, noxious weeds, disease outbreaks, insect infestations, and conifer encroachment.

The SWAP outlines various actions the DFWP can take to avoid these impacts, some of which will be further discussed in the Technical Assistance section of this report.

In scoring wildlife habitat acquisition proposals, the DFWP gives more points to the three priority habitats: intermountain grassland, riparian/wetland, and shrub grassland. It also ranks projects higher if the proposed habitat:

- exists only in a portion of its original distribution;
- has unique characteristics to the biological/ecological community;
- has desirable qualities of productivity (e.g., condition of native plants);
- is imminently threatened by activity within 5 years;
- is strategically located relative to other habitat features/values in the area;
- contributes to hunting, fishing, and other recreational opportunities; and
- has fewer management needs.

The DFWP starts its ranking process with an internal call for project proposals. Biologists identify priority opportunities in their areas and work with interested landowners. Proposals are reviewed by the regional wildlife manager and supervisor before being forwarded to the habitat bureau chief in Helena. After a group scoring process, recommendations are made to the director for concurrence. Selected projects then follow the public and policy review processes, including review by the Fish and Wildlife Commission and the State Land Board.

The table on the following page lists current wildlife habitat acquisition projects. Some of the most recent projects, toward the bottom of the table, were selected through the ranking process but still need an initial endorsement from the Fish and Wildlife Commission.

When an acquisition is made, a management plan is developed to identify relevant issues for a property and how the department or landowner (in the case of a conservation easement) will proceed, including how results are monitored. Management plans for WMAs also document some of the history and more complex components of the properties to serve as "Owner's Manuals" for future employees.

### **Payments in Lieu of Taxes**

Pursuant to 87-1-603, MCA, the DFWP makes payments to counties for department-owned land in an amount equal to the amount of taxes that would be payable on the property if it was taxable to a private citizen. Exceptions are for bird farms, hatcheries, and state parks acquired before 2009 and in counties in which the DFWP owns less than 100 acres. The payments date back to 1951. In FY 2015, the DFWP paid \$854,354 to 40 counties.

Wildlife Habitat Project Name	Region	Acquisition Type	Acres/ Total	Commission Endorsement	Additional Information
Spotted Dog WMA Inholdings	2	Fee Title and/or Land Exchange	negotiate terms	8/18/2011	Project negotiated, pre-public process
Fish Creek WMA - West Fork Inholding	2	Fee Title	320	10/10/2013	Anticipate closing early in 2016
Wall Creek WMA addition	3	Fee Title	640	10/10/2013	Completed 1/2016
Haskill Basin	1	CE	3,020	11/14/2013	Anticipate closing early in 2016
Sinclair Creek	1	CE	220	11/14/2013	
Box Elder Creek	6	CE	7,000	11/14/2013	
Flatt Ranch	6	CE	1,760	11/14/2013	
Lost River WMA - Wollery Inholding	6	Fee Title	630	1/9/2014	
DNRC Inholdings	Multiple	Fee Title and/or Land Exchange	18,000	7/10/2014	Phase I involves select Region 4 WMAs; Phase II intended for select Region 2 and/or 3 WMAs
Nevada Lake WMA- Clear Creek Addition	2	Fee Title	706	10/16/2014	
Ash Coulee CE	6	CE	4,800	3/12/2015	
N Shore WMA - Parcel 1	1	Fee Title	77	5/10/2015	Completed 2/2016
N Shore WMA - Parcel 2	1	Fee Title	68	5/10/2015	
Trumbull Creek CE	1	CE	7,150	5/10/2015	
Isaac Homestead WMA Addition	7	Fee Title	527	5/10/2015	
Threemile WMA Antrim Donation	2	Fee Title	214	11/12/2015	
Fresno WMA Addition	6	Fee	47	11/12/2015	
Canyon Creek WMA Specimen Cr. Donation	3	Fee	720	scheduled 3/10/2016	
Machler Ranch	4	CE	2,700	scheduled 3/10/2016	
Rumney Foothills	4	CE	7,512	scheduled 3/10/2016	
Raths Ranch	5	CE	11,500	scheduled 3/10/2016	
Tiger Ridge	6	CE	12,850	scheduled 3/10/2016	
Mt Haggin WMA Land Exchange	3	Land Exchange	140	tentative scheduled 4/14/16	
Whitetail Creek CE Addition	3	CE	41	tentative scheduled 4/14/16	
Rumney Missouri River Bottomland	4	CE	687	tentative scheduled 4/14/16	
Grant Marsh WMA Addition	5	Fee Title	392	tentative scheduled 4/14/16	
Wolf Island	7	CE	140	tentative scheduled 4/14/16	adjacent to Elk Island WMA



## Administrative Designations and Conservation Agreements

### Wildlife Management Areas

There are 69 WMAs, comprising 442,814 acres. A map of their locations is provided in Appendix B. Eighty-four percent of the WMA acreage is fee title. The rest is leased or rights-of-way. WMAs account for 87.3% of all the fee title acres held by the DFWP.

WMAs protect habitat for an array of game and nongame species by conserving the land as habitat, providing rules for use of the land, and in some cases limiting the public's access to or recreation on the land to provide undisturbed range or nesting habitat for certain species.

Public access to 34 WMAs is closed temporarily to provide big game winter range (typically from Dec 2 through May 14). Two WMAs are closed March 2 to July 14 for nesting. Other WMAs are open year-round unless subject to site-specific restrictions.

WMAs are open to all established hunting and trapping seasons unless specifically closed or restricted as noted in the hunting and trapping regulations. Trapping is allowed by written permission and may be subject to special restrictions or regulations.

Groups of 10 or more persons must obtain a WMA group use permit, subject to fees and deposits. Group use is allowed if it does not conflict with objectives and management purposes of the WMA.

Vehicles are allowed only on designated open roads and snowmobiles must stay on groomed trails.

Dispersed camping is allowed, unless otherwise posted, and limited to 16 days in any 30-day period. Waters within WMAs are open to watercraft unless posted. Restrictions on the size of watercraft and horsepower may apply.

Weed-free feed is required on WMAs. All pets and domestic animals must be restrained and under control, though dogs may be used for hunting during legally open seasons. Organized dog training, field trials, and hunt tests are prohibited unless authorized.

Antler collection is prohibited on WMAs when they are closed to public use.

Commercial use of WMAs is governed by a commercial use policy first enacted in 2006. Commercial use means any person, group or organization that makes or attempts to make a profit, vend a service or product, receive money, amortize equipment, or obtain goods or services as compensation from participants. This includes nonprofit organizations and educational groups that receive money from participants. Commercial use permits must be obtained and generally require at least 90 days advance notice.

### Wildlife Habitat Protection Areas

The DFWP coined the term "Wildlife Habitat Protection Area" (WHPA) a number of years ago. The department says these properties do not require much management as they include small lake and river islands or small isolated land holdings that provide habitat but are not as extensive or established as a WMA.

The DFWP has 18 WHPAs, comprising 1,906 acres. Seventy-eight percent of those acres are leased or under easement. The remainder are fee title ownership.

### Conservation Easements

The DFWP purchased its first wildlife conservation easement in 1990 on 160 acres adjacent to the Dome Mountain WMA. As of January 2016, the DFWP has 62 wildlife conservation easements totaling 436,693 acres.

Landowners sell conservation easements for a variety of reasons including:<sup>19</sup>

- to ensure future conservation of natural and agricultural values on the ranch;
- to allow their heirs to be able to afford to buy the ranch;
- for family estate planning;
- to ensure a place for the public to recreate, especially for hunting;
- to enlarge agricultural operations; and
- to pay off debt.

All of the DFWP conservation easements are permanent and include provisions for both protection and management of the land.<sup>20</sup>

Protection refers to easement terms such as subdivision prohibitions and building limitations. Normal farming practices continue, but no new fields are broken. No commercial activities other than those appropriate to agricultural practices are allowed. Mining practices must not negatively impact conservation values of the land.

Management refers to day-to-day practices agreed to that ensure vegetation, soils, and other habitat features are conserved as a part of ongoing agricultural activities, and recreation is maintained at an appropriate level to serve the public good while avoiding negative impacts. Management often includes developing and implementing livestock grazing systems, access plans for the recreating public, and habitat restoration. Improvements necessary for implementing management plans are often paid for in part using Habitat Montana funds. Once improvements are in place, the ongoing need associated with managing conservation easements is monitoring, maintaining regular communication with cooperators, updating management plans as needed, working with and informing new landowners of easement terms, and working on periodic compliance issues.

A negotiated level of public access appropriate to the circumstances of each property is also required of all Wildlife Division conservation easements.

According to the DFWP, there is regular discussion about easement language. Internal audits conducted by an outside contractor in 1999 and 2000 found the language and form of the DFWP's easements up-to-date.

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<sup>19</sup> Habitat Montana Report to the 64<sup>th</sup> Legislature, Montana Fish, Wildlife, and Parks Wildlife Division, January 2015, page 4.

<sup>20</sup> Ibid, page 9.

However, challenges arise as time passes and especially as land ownership changes. New owners do not necessarily have a connection to the terms negotiated by the original owners.

The DFWP says the process required to amend an easement helps protect the intent of the easement, but it can make it difficult to react to changing conditions. The DFWP is evaluating what language should be in the easement itself versus the management plan. Management plans can be amended as needed, such as allowing the harvest of beetle-killed trees or reacting to other environmental conditions.

The DFWP says more staff resources are needed to monitor compliance with easements and for followup if terms are not met. The DFWP's lands office, stewardship manager, and biologists monitor easements annually. But the agency says having enough personnel is a challenge as the number of easements increases and ownership changes.

### Conservation Leases

Unlike the DFWP's conservation easements, conservation leases are not permanent and are not attached to the deed of the property. Leases are recorded at the relevant county clerk and recorder office. If a property is sold before a lease expires, the new landowner may assume the terms. If not, the original landowner would need to work with the DFWP to buy out the lease, which would include a prorated value plus estimated damages.

Thanks to two new grants, the DFWP is offering 30-year conservation leases to conserve priority grasslands and shrublands from habitat loss and to provide additional opportunities for wildlife viewing and hunting. The department is especially targeting lands that benefit waterfowl, sage-grouse, and Montana species of concern. Priorities include larger properties or those that expand the footprint of existing protected areas, properties under rest-rotation grazing, and properties at high risk for conversion to cropland.

Landowners are eligible if their property is not already under another form of long-term conservation protection and if the property is:

- located in priority habitats in the Prairie Pothole Region; or
- currently or previously enrolled in the NRCS's Sage Grouse Initiative and located in a core area of sage-grouse habitat.

Participating landowners receive a one-time payment of \$15/enrolled acre and agree to protect and maintain existing native grassland, sagebrush, other native vegetation, and wetlands. While cropland conversion is prohibited, grazing and other traditional land uses are encouraged.

A majority of the funding for the leases comes from two federal programs: the National Fish and Wildlife Foundation (NFWF) and the USDA's Voluntary Public Access and Habitat Incentive Program (VPA-HIP). The NFWF provided \$180,000 for leases on about 30,000 acres. The VPA-HIP provided almost \$707,000 for leases on about 45,000 acres.

The DFWP, meanwhile, is contributing \$200,000 from the Upland Game Bird Enhancement Program and \$100,000 from the Migratory Bird Wetland Program.

## Grazing Agreements

Livestock grazing occurs on about 69% of the state's land surface.<sup>21</sup> The DFWP is actively involved with grazing as it influences habitat on agency lands and DFWP-funded projects. The agency also provides technical assistance to other landowners and agencies.

In 2010, the DFWP adopted minimum grazing standards for landowners who pasture and graze livestock on private or public land. The standards are designed for upland and riparian areas and are intended to achieve a balance between maintaining sustainable agriculture and quality wildlife habitat. They aim to preserve and restore a full complement of native vegetation while providing season- and year-long standing cover important for forage and hiding.

The standards apply to all DFWP-funded projects and on all DFWP lands where grazing is allowed. The Wildlife Division currently administers 24 grazing leases on 16 WMAs, involving about 95,500 acres. Thirteen of the leases incorporate adjacent private and public lands totaling an additional 58,700 acres.

On WMAs where wildlife production and habitat conservation are the primary objectives, it is not unusual for the amount of rest from livestock grazing to exceed the minimum standard. Also, in areas where wildlife production is the primary objective, grazing may be reduced significantly below the minimum standard.

Grazing plans are included in management plans for conservation easements and grazing leases or contracts on WMAs and other DFWP lands. They include a map of the pastures, a grazing formula specific to those pastures, the class of livestock, and other pertinent information.

## Farming Leases

The Wildlife Division currently administers 16 farming leases on approximately 2,400 wildlife habitat acres. Farming leases can be cash leases, leases in exchange for services by the lessee<sup>22</sup>, or both. The farming program is intended to provide wildlife habitat and land management benefits while also benefiting local producers.

Crops are typically a food source for resident and migratory wildlife. Lessee services include weed control, cover establishment or enhancement, food plots, irrigated hay crops left over winter, and irrigation system maintenance.

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<sup>21</sup> FWP Minimum Standards for Grazing Livestock, December 10, 2010, page 2.

<sup>22</sup> 87-1-209(7), MCA.

## Habitat Enhancement

In addition to acquiring habitat for conservation, the DFWP has multiple ongoing programs to enhance habitat.

### Upland Game Bird Enhancement Program

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 and combination licenses supports the program.

Its genesis was a pheasant habitat enhancement program established by the DFWP in 1983 to assist and advise sportsmen's groups, landowners, and special associations in their efforts to improve habitat in areas with potential for supporting self-sustaining and huntable pheasant populations. The program was only used by one organization in Ravalli County.<sup>23</sup>

#### *Legislative History*

In 1987, the Legislature put the pheasant enhancement program in statute (Senate Bill No. 360, sponsored by Senator Ed Smith, R-Dagmar) and earmarked revenue from the sale of upland game bird licenses to support it. The DFWP testified the program would complement federal farm programs (e.g., the USDA's Conservation Reserve Program) and focus on areas with the highest probability of success and long-term benefits, based on pheasant habitat potential and quality.

SB 360 originally allowed some of the funding to be used for habitat enhancement, but those provisions were stripped in the House with the sponsor's support. Funds that weren't used for the program's administration<sup>24</sup> were dedicated to sharing the cost of releasing pheasants--up to \$3 per bird.

Senator Smith hoped that 200,000 to 300,000 pheasants could be planted. He felt "with the size of the state, and the amount of habitat they presently have, there is plenty of habitat out there to accommodate these birds."<sup>25</sup>

Rep. Paul Rapp-Svrcek expressed concern about removing the habitat provisions, saying the program "would end up being an expensive stocking program".<sup>26</sup>

In 1989, the Legislature revisited the program and expanded its scope to upland game bird<sup>27</sup> enhancement (Senate Bill No. 33). The bill's sponsor, Senator Al Bishop, R-Billings, testified that out of the approximately \$400,000 raised by the program, only \$10,000 was paid out for raising pheasants, leaving a large balance in the account.

SB 33 directed unexpended funds at the end of each fiscal year to development, enhancement, and conservation of upland game bird habitat. Habitat enhancement was

<sup>23</sup> Senate Fish and Game Committee Minutes, February 19, 1987, Exhibit 2.

<sup>24</sup> Administrative costs were restricted to 10% in the first 2 years of the program.

<sup>25</sup> House Fish and Game Committee Minutes, March 17, 1987, page 4.

<sup>26</sup> Ibid.

<sup>27</sup> "Upland game bird" is defined in 87-2-101, MCA, as sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

defined to include establishment of suitable nesting cover, winter cover, and feeding areas through cost sharing, leases, or conservation easements.<sup>28</sup>

Then-DFWP Deputy Director Ron Marcoux said the department received overwhelming support for inclusion of a habitat program when it was adopting rules for the 1987 legislation. Commenters said that a habitat program centered around incentives for private landowners would provide long-term benefits to upland game birds and more stability to population numbers.<sup>29</sup>

Central Montana Pheasants Forever testified that the bill left the door open for all the funding to be used for stocking birds. A proposed 10% cap on stocking costs was unsuccessful.

The UGBEP gives preference 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. For instance, landowners can require hunters to obtain permission prior to hunting.

Projects containing hunting preserves or any commercial hunting enterprise or in which hunting rights are leased or paid for are not eligible.

While the program fundamentals remain the same, the allocation of funding changed as the UGBEP gained real world experience and priorities shifted. Pheasant releases did not increase or sustain existing populations due to high mortality of released birds.<sup>30</sup>

#### ***Audits and Legislative Response***

In 1999, the Legislature limited expenditures for pheasant releases in House Bill No. 2 to \$30,000 per year for the 2001 biennium. A legislative performance audit published in December 2000 said that while that deemphasized pheasant releases in relation to habitat enhancement, the program's statutes were not changed. The audit recommended that the Legislature clarify the UGBEP and clearly establish the purpose of the two program components.<sup>31</sup>

The 2001 Legislature took up the cause. Senate Bill No. 304 struck the per-bird cost-share of \$3, instead requiring that at least 15% of UGBEP funding be set aside each year for expenditures related to upland game bird releases.<sup>32</sup> Administrative costs were restricted to another 15%. The remainder was for habitat enhancement.

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<sup>28</sup> 87-1-248, MCA.

<sup>29</sup> Senate Fish and Game Committee Minutes, January 17, 1989, Exhibit 1.

<sup>30</sup> Performance Audit 01P-04 Upland Game Bird Habitat Enhancement Program, Montana Legislative Audit Division, December 2000, page 6.

<sup>31</sup> Ibid, page 40.

<sup>32</sup> In addition, 87-1-247, MCA, requires that at least 25% of the funds set aside for releases be spent each year.

SB 304 also laid out parameters for funding habitat enhancement:<sup>33</sup>

- A project may not receive more than \$100,000, except when authorized by the Fish and Wildlife Commission (up to \$200,000).
- Total purchases of equipment, land, and buildings may not exceed \$25,000 for each project. Any equipment purchased with UGBEP funds remains the property of the DFWP.
- The construction of wells, pipelines, or roads is only allowed on a cost-share basis. The applicant must pay at least 50%.
- A shelterbelt may not be constructed within 400 feet of any residential building or building occupied by livestock.

The Legislature also required the DFWP to adopt rules, including criteria for project eligibility, evaluation, reporting, and monitoring. The language of SB 304 showed preference for projects with longer contract lengths and larger landowner cost share, lands with unique components, such as wetlands, and a landowner history of providing hunter access and habitat enhancement.

The performance audit also recommended improved fiscal controls for the UGBEP after finding 62% of the payments DFWP made on projects lacked sufficient documentation to justify the payments. SB 304 took aim at this problem by requiring the DFWP to adopt rules that require payments be supported by contracts, invoices, receipts, or other supporting documentation.<sup>34</sup>

Additional recommendations in the audit included establishing specific and formal program goals and objectives, developing a formal procedure manual, and creating an accurate program database.

In 2009, a second legislative performance audit found the UGBEP still had similar problems. It made four recommendations for improvement.

- 1) Develop a UGBEP management plan that guides the long-term vision of the program with specific goals, quantifiable objectives, and results-oriented performance measures.
- 2) Create a UGBEP advisory council to assist in management planning and provide a review mechanism for assessing whether program goals and objectives are accomplished.
- 3) Correct existing database information to ensure completion and accuracy, establish database controls, and ensure the information is available at the regional level.
- 4) Revisit the 15% funding allocation for administrative costs.

The audit also found that the UGBEP faced a significant decline in total number of active habitat enhancement projects with 61% set to expire in the next 5 years.<sup>35</sup> The audit attributed the issue to the restriction of the program's administrative expenses and an

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<sup>33</sup> 87-1-248, MCA.

<sup>34</sup> 87-1-249(2)(e), MCA.

<sup>35</sup> Performance Audit 08P-01 Upland Game Bird Enhancement Program, Montana Legislative Audit Division, March 2009, page 1.

inability to place dedicated resources around the state. The program's first dedicated FTE, a biologist responsible for general administration, wasn't created until October 2008.<sup>36</sup>

Though the second audit wasn't released until March of 2009, the Legislature already was crafting House Bill No. 499 in response. The bill repealed the 15% limit on administrative costs and the legislature authorized the hiring of three biologists<sup>37</sup> in Plentywood, Miles City, and Conrad to better implement the UGBEP at the regional level.<sup>38</sup> The biologists were responsible for working with landowners and stakeholders to develop new habitat projects. Fifteen new projects were approved within a year's time.

HB 499 also established the Upland Game Bird Citizens' Advisory Council.<sup>39</sup> It consists of 12 members, including two legislators, who serve staggered, 4-year terms. The council helped develop a 10-year strategic plan for the UGBEP—the first since the program's inception in 1987.<sup>40</sup>

### **Present Day**

In Fiscal Year 2015, the UGBEP spent \$60,008 on bird planting and \$166,208 on habitat enhancement. A historical retrospective on UGBEP expenditures since 1988 is provided in Appendix C.

As of October 2015, the UGBEP had 389 active habitat enhancement contracts comprising over 298,000 project acres with over 573,000 additional acres available for public upland game bird hunting. That's compared to 268 projects in Fiscal Years 2007 and 2008 with 330,000 project acres and 800,000 access acres.

During the Fiscal Year 2013/2014 biennium, the UGBEP obligated \$519,437 to habitat enhancement projects. All of the contracts received funding or in-kind contributions from a variety of sources, including private landowners, federal agencies, and Pheasants Forever chapters. Overall, UGBEP funded about 49% of the total project costs.<sup>41</sup>

Each project is monitored every 1 to 5 years based on the project type as established in the strategic plan. Food plots, grazing systems, and conservation easements are monitored every year. Leases are reviewed annually or up to every 5 years. Nesting cover is checked the first fall and every 3 years thereafter. Shelterbelts are monitored in years 1, 2, 5, 10, and 15. Wetland restoration is monitored during construction and in years 4, 7, 11, and 15.<sup>42</sup>

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<sup>36</sup> Ibid, page 8.

<sup>37</sup> After the first 2 years, these positions were redefined and reclassified as habitat specialists.

<sup>38</sup> Performance Audit Follow-up 10SP-25: Upland Game Bird Enhancement Program 08P-01, August 31, 2010, page 2.

<sup>39</sup> 87-1-251, MCA.

<sup>40</sup> Upland Game Bird Enhancement Program Strategic Plan, Montana Fish, Wildlife, and Parks, 2011-2012, page 8.

<sup>41</sup> Report to the 64<sup>th</sup> Legislature, Montana Upland Game Bird Enhancement Program, Montana Fish, Wildlife, and Parks, January 2015, page 21.

<sup>42</sup> Upland Game Bird Enhancement Program Strategic Plan, Montana Fish, Wildlife, and Parks, 2011-2021, page 105.



In Fiscal Years 2013 and 2014, UGBEP biologists visited 154 active project sites to evaluate their status and productivity. No substantial compliance issues were noted. One property changed ownership. This requires amending the contract or having the original owner “buy out” of the contract.

The UGBEP often has a large ending fund balance at the close of each fiscal year. Since 2005, it averaged \$3.2 million. This can be a point of contention for stakeholders who want to see more birds released or more habitat enhancement projects up and running.

The DFWP says the timing of projects is one cause. In Fiscal Year 2014, the ending fund balance was \$3.1 million. Of these funds, more than half (\$1.7 million) were obligated to specific contracts, leaving an adjusted fund balance of \$1.4 million.<sup>43</sup>

### Open Fields for Game Bird Hunters

Open Fields for Game Bird Hunters is a new type of habitat lease administered through the UGBEP. Started in Fiscal Year 2013, the leases are 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 USDA’s Conservation Reserve Program (CRP).

The CRP is a voluntary program that contracts with agricultural producers so that environmentally sensitive agricultural land is not farmed or ranched for 10 to 15 years. Participants establish long-term, resource-conserving plant species to control soil erosion, improve water quality, and develop wildlife habitat. There is a natural relationship between the CRP and UGBEP, because the DFWP can plant native grasses on CRP lands.<sup>44</sup>

Montana landowner enrollment in the CRP declined almost 50% from a peak of 3.48 million acres in 2006 to 1.75 million acres in 2014.<sup>45</sup> The decrease is often attributed to increased prices for wheat and other crops.

Add-on CRP payments were identified as a potential tool for enhancing habitat in the UGBEP Strategic Plan published in 2011. A landowner may enroll up to 160 CRP acres in Open Fields and receive a one-time lease payment of \$5/acre for each year that remains in the landowner’s CRP contract. A minimum of 2 years is required.<sup>46</sup>

Enrollment in Open Fields is voluntary and competitive. Walk-in game bird hunting, with no further permission needed, is required. Landowners can offer additional CRP or non-CRP acres for walk-in hunting to receive a higher evaluation score. Land located in priority counties, shaded in green on the following page, receive additional evaluation points as well. Enrolled lands do not allow for emergency haying or grazing beyond scheduled maintenance.

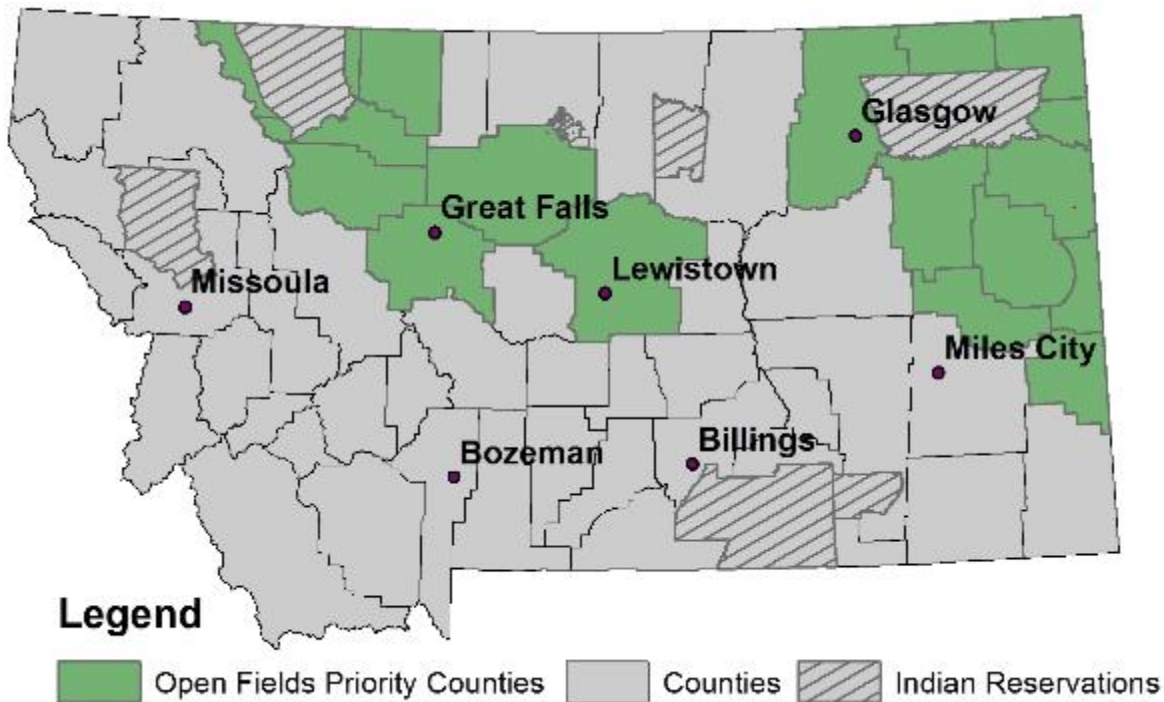
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<sup>43</sup> Report to the 64<sup>th</sup> Legislature, Montana Upland Game Bird Enhancement Program, Montana Fish, Wildlife, and Parks, January 2015, page 19.

<sup>44</sup> Performance Audit 08P-01 Upland Game Bird Enhancement Program, Montana Legislative Audit Division, March 2009, page 12.

<sup>45</sup> CRP Enrollment and Rental Payments by State, 1986-2014, U.S. Department of Agriculture Farm Service Agency.

<sup>46</sup> <http://fwp.mt.gov/hunting/hunterAccess/openFields/default.html>, February 2, 2016.



Lands not eligible for Open Fields include<sup>47</sup>:

- Lands enrolled in the Block Management Program (BMP);
- Non-BMP lands that are immediately adjacent to a Block Management Area under the same ownership;
- Lands that are part of an active UGBEP contract;
- Stands of grass dominated by crested wheatgrass or smooth brome; and
- Due to different management jurisdictions, land within Indian Reservations.

Almost \$1.5 million in funding will be spent on Open Fields between Fiscal Years 2013 and 2017. Fifty-three percent comes from the USDA’s Voluntary Public Access and Habitat Incentive Program. The UGBEP picks up the rest.

Between 2012 and September 2015, landowners enrolled 19,480 acres of CRP in Open Fields and provided an additional 25,777 acres of walk-in hunting access. The average length of those contracts is 9 hunting seasons.<sup>48</sup>

The DFWP anticipates enrolling 12,000 to 36,000 more acres by the end of Fiscal Year 2017.

<sup>47</sup> Ibid.

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

## Migratory Bird Wetland Program

The Migratory Bird Wetland Program (MBWP) was established by the 1985 Legislature. House Bill No. 820 required those 16 years of age or older to buy a \$5 waterfowl stamp in order to hunt wild ducks and geese, brant, and swans.

The DFWP was required to contract with Montana artists to design the stamp each year. Money from the sale of the stamp and related artwork was dedicated to the protection, conservation, and development of wetlands in Montana.

HB 820 also created an advisory council to review proposals developed by the DFWP to spend the annual revenue. Members currently include Montana migratory game bird hunters, nonconsumptive users of wildlife, and the agricultural industry.

Over time, the Legislature tweaked the law. In 1989, House Bill No. 383 decreased the age at which a stamp was required to 15. That was changed back to 16 years of age in 1999 to be consistent with federal regulations.

In 1995, Senate Bill No. 70 changed the name of the stamp from “waterfowl” to “migratory game bird”. This expanded the species for which the stamp was required for hunting to include cranes, rails, Wilson’s snipes or jacksnipes, and mourning doves. Those species were previously included in the upland game bird license.

The 1997 Legislature changed the stamp to a *license* as part of a broader revision of fish and game licenses in Senate Bill No. 60. In 2003, the Legislature abolished the physical stamp and related art contest. The DFWP’s automated licensing system no longer necessitated a stamp for proof of purchase. Also, artist interest in the stamp contest waned. There were 48 entries in the stamp’s first year (1986). There were three entries in each of the last 2 years. Sales to stamp collectors brought in less than it cost the DFWP to produce the stamp.<sup>49</sup>

In 2001, the Legislature passed Senate Bill No. 238, requiring nonresidents to pay \$50 for the license. The 2005 Legislature increased the resident price to \$6.50. Current revenue from the migratory game bird license is about \$270,000 per year.<sup>50</sup>

### **Wetlands Conservation**

Montana has lost approximately one-third of its naturally occurring wetlands since settlement.<sup>51</sup> They are valued for flood and erosion control, enhancing water quality, and providing wildlife and fish habitat. The Federal Clean Water Act requires mitigation for some wetland filling projects, but road expansion, development, and cumulative impacts from drainage, changes in land management, and landowner preference for open water ponds still pose challenges.

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<sup>49</sup> House Committee on Fish, Wildlife, and Parks Minutes, January 14, 2003, Exhibit 1.

<sup>50</sup> Montana’s Migratory Bird Wetland Program: A Guide for Identifying and Establishing Quality Wetland Projects, Montana Department of Fish, Wildlife, and Parks, January 2015, page 3.

<sup>51</sup> <http://deg.mt.gov/Water/WPB/Wetlands>, February 5, 2016.

As crafted by the Wetland Protection Advisory Council and the DFWP in 2012, the goal of the MBWP is to “protect, conserve, enhance, and create high quality wetland habitat to benefit wildlife, especially migratory birds, and the residents and visitors of Montana.”<sup>52</sup> Habitats covered by the program include existing, drained, and created wetlands, riparian systems, and wetland-associated uplands.

Since 1989, the overarching priorities have been:<sup>53</sup>

- no net loss of the state’s remaining wetland resources; and
- an overall increase in the quality and quantity of wetlands in Montana.

The DFWP developed a guide for identifying and establishing quality wetland projects to help both biologists and project sponsors. The guide describes general characteristics of high quality projects and common project pitfalls.

The advisory council reviews and provides public oversight of projects, but does not approve or disapprove them.

Since its inception, the MBWP restored, enhanced, or created 636 wetlands across the state; implemented management actions to enhance 9,807 acres of wetland-associated grasslands; and contributed to permanent protection of 31,991 acres of wetland and associated grasslands.

Between Fiscal Years 2007 and 2015, the DFWP completed 15 projects totaling 5,192 acres. The total cost was \$4.7 million with the MBWP contributing \$1.45 million.

The DFWP has several projects pending for Fiscal Years 2016 and 2017 on approximately 31,780 acres. The estimated MBWP investment is \$512,000. The projects include creating wetlands on the Canyon Ferry WMA, a conservation easement in Phillips County, 30-year conservation leases in various locations, and statewide wetland repair.

The number of fee-title and conservation easement acquisitions with MBWP funding is small (six) compared to the number of completed on-the-ground wetland projects (636). However, an increasing percentage of the funding is going to acquisitions as the department transitions to more “protection” type projects. The DFWP says there are a finite number of wetland creation opportunities, most of which the DFWP already exploited, it can be difficult to change water rights, and there is a philosophical shift toward conserving landscapes rather than individual wetland basins.

### **Wildlife Mitigation Trust**

Established by the Legislature in 1987, the Wildlife Mitigation Trust is the funding arm of an agreement between the state and the BPA to protect, mitigate, and enhance wildlife and wildlife habitat affected by the construction of the Libby and Hungry Horse Dams.

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<sup>52</sup> Montana’s Migratory Bird Wetland Program: A Guide for Identifying and Establishing Quality Wetland Projects, Montana Department of Fish, Wildlife, and Parks, January 2015, page 3.

<sup>53</sup> Ibid, page 5.

Construction of the dams “flooded 90 miles of the Kootenai and Flathead Rivers, 101 miles of tributary streams, and 52,105 acres of key wildlife habitats. An additional 4,100 acres of important wildlife habitat were lost due to construction and relocation of roads and railroads.”<sup>54</sup>

The U.S. Congress enacted the Pacific Northwest Electric Power Planning and Conservation Act in 1980 (Power Act), requiring the BPA to fund the mitigation program with revenue collected from the sale of electricity. In 1988, the state and the BPA entered into a 60-year agreement that resulted in \$13 million deposited by BPA into the trust. It was based on impact assessments completed by the DFWP in 1984.<sup>55</sup>

Since then, the DFWP completed mitigation projects that amount to more than five times the total acreage lost under Kootenai and Hungry Horse Reservoirs. Continued income from the trust is used to monitor and maintain the projects. The DFWP budgeted \$185,634 for this in Fiscal Year 2015.

Excess revenue (a few thousand dollars each year) is available for other projects within the Columbia River Basin of Northwest Montana and to further offset impacts of the dams. The DFWP is leveraging those dollars through partnerships.<sup>56</sup>

Current priorities target species and habitats identified in the original mitigation plans that are underrepresented in previous projects. The five areas of program focus are:<sup>57</sup>

- wetland/riparian habitats;
- grizzly bears;
- terrestrial furbearers;
- mountain sheep; and
- Palouse prairie/Columbian sharp-tailed grouse.

In the past year, the DFWP mitigated an additional 20 acres, bringing the total number of acres enhanced or conserved to 246,995 at a cost of \$10.3 million to the trust. Eighty-eight percent of the acres are upland forest, 8.5% are riparian/wetlands, and the rest are Palouse prairie/agriculture.<sup>58</sup>

Montana’s settlement with BPA did not address operational impacts from the dams. The DFWP says this remains one of the greatest needs of the program. In 2015, the department spent more time participating in the Northwest Power and Conservation Council’s development of a fish and wildlife program as a result.<sup>59</sup> The program is one of the planning activities required under the Power Act. The Council expects to complete it in the next 2 to 3 years.<sup>60</sup>

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<sup>54</sup> Montana Wildlife Mitigation Program Annual Report FY 2015, January 26, 2016, page 1.

<sup>55</sup> <http://fwp.mt.gov/fishAndWildlife/habitat/wildlife/programs/mitigationTrust/default.html>, February 3, 2016.

<sup>56</sup> Ibid.

<sup>57</sup> Montana Wildlife Mitigation Program Annual Report FY 2015, January 26, 2016, page 1.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid, page 2.

<sup>60</sup> <http://www.nwcouncil.org/about/mission/>, February 3, 2016.

### **Financial Summary**

The balance of the Wildlife Mitigation Trust at the end of Fiscal Year 2015 was \$11,692,201. Net revenue was \$120,047, primarily earned on interest in long-term bonds. Expenditures totaled \$371,207. Sixty-four percent went to personal services, 26% to operating expenses and capital projects, and the rest to overhead.<sup>61</sup>

### **Sikes Act**

The Sikes Act, as amended by Congress in 1974, provides for the restoration of habitat on all federally owned lands. Projects target species that are fished, hunted, or trapped. Examples include burning conifers to maintain grasslands, weed control on big game winter range, and enhancement of wetland and riparian areas.

The DFWP had agreements with the USFS and BLM to split the cost of projects 50:50. Funds available to the DFWP averaged \$75,000 per year.<sup>62</sup> A sportsmen advisory committee provided project review.

The USFS proposed a majority of the projects with four to 25 funded each year.<sup>63</sup> The DFWP's portion of the costs ranged from \$50,000 to \$75,500 between 2007 and 2012. Since then, the DFWP's annual expenditures averaged \$8,400.

The DFWP says that when it went through a financial strain a few years ago, most of the license dollars budgeted for Sikes projects were redirected to match P-R funds received for other department needs. The DFWP retained sufficient funding to support a long-term Sikes obligation with the BLM at Pompey's Pillar for the cost of irrigation water for farm work that promotes pheasant habitat.

### **State Wildlife Grants**

Congress created the State Wildlife Grant (SWG) funding program in 2000 to help address the conservation needs of nongame wildlife species and their habitats. To participate, states must develop a State Wildlife Action Plan and revise it every 10 years.

Montana's revised action plan was approved on July 15, 2015. It identifies species and their habitats that are in greatest need of conservation, regardless of the availability of SWG funding in the future. Therefore, the plan says partnerships and other funding sources should be sought and encouraged. The work identified in the plan already exceeds the SWG funding available.

Since 2002, the SWG program allocated \$14.3 million to Montana. Annual funding declined from a high of \$1.37 million in 2002 to a low of \$792,000 in 2015.

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<sup>61</sup> Montana Wildlife Mitigation Program Annual Report FY 2015, January 26, 2016, pages 18-19.

<sup>62</sup> Sikes Act Program 2007-2008 Report to the 61<sup>st</sup> Legislature, Montana Department of Fish, Wildlife, and Parks, January 2009, page 2.

<sup>63</sup> Ibid.

In Fiscal Year 2014, the program allocated \$824,400 to Montana. That year, the DFWP focused on three broad project types:

- Riparian, grassland, and sagebrush habitat protection and conservation on private and public lands. This included restoration of a water control structure near Dillon for critical bird habitat, work in the Big Hole Watershed to restore riparian areas damaged by mining and a disconnected flood plain, and restoration of a hayfield in northeast Montana to an upland riparian forest.
- Species-specific enhancement. The DFWP worked with Montana Audubon and others to launch the Long-Billed Curlew Habitat Initiative. Curlew survey data will be used to update habitat suitability maps. A planning and action summary is being developed for the Mission Valley focal area. One landowner grazing agreement was finalized with the NRCS. Habitat conservation was planned for the Upper Missouri Valley in 2015.
- Species survey and inventory.

## Evaluating Habitat Projects

A legislative performance audit published in March 2000 recommended the DFWP implement a system for evaluating habitat projects to measure their effect on habitat and wildlife populations.<sup>64</sup> The DFWP says evaluation of habitat is largely driven by informational need and resource management priorities.

Examples include:

- Ongoing vegetation trend monitoring for WMAs and conservation easements. The work includes over 20 years of data and evaluates trends in soil stability and vegetation features to ensure that ecological conditions are sustained or improved over time.
- Completion of an extensive vegetation condition evaluation on the Spotted Dog WMA. This report, published in March 2015, documented the current condition of vegetation types that provide high value wildlife habitat. The data serves as a baseline for evaluating changes to habitat condition in association with changes in its management.
- Collaboration with the NRCS, the BLM, and other partners to evaluate livestock grazing system effects on sage grouse. Grazing systems are expensive and there is uncertainty as to which grazing treatments provide the greatest benefit.
- Nearly all of the WMAs that provide big game winter range are surveyed annually to determine use and contribute to a larger survey on population trends. A more detailed evaluation was completed on the Wall Creek WMA, comparing elk use of different areas in relation to how the property was grazed by livestock earlier in the year.
- The DFWP has smaller contracts and agreements for evaluating habitat use, such as a master's thesis evaluation of aspen treatments on the Mt. Haggin WMA or an ongoing bird monitoring contract to document habitat use on reclaimed areas of the Warm Springs WMA.
- Various inventories are conducted to document biodiversity within conservation projects (e.g., bat and bird surveys in association with the Milk River Initiative, small mammal surveys on selected WMAs, and a bird count survey on Gordon Cattle Co. conservation easement lands). These evaluations establish a baseline and document broader (e.g., nongame) benefits associated with native habitat conservation projects.
- Select conservation easements track hunter use over time as a surrogate for habitat quality and game availability/abundance on those properties.

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<sup>64</sup> Performance Audit 98P-11 Wildlife Division, Montana Legislative Audit Division, March 2000, page 47.



## Coordination Between Habitat and Wildlife Activities

The March 2000 performance audit also recommended the DFWP emphasize coordination between wildlife and habitat activities at the program level.<sup>65</sup>

The DFWP says habitat programs achieve conservation benefits that tie back to wildlife priorities through the State Wildlife Action Plan. Specific examples include:

- Requiring hunting access to conservation easements helps manage big game herds.
- Securing big game winter range on WMAs assures herds have functional winter habitats dedicated to that purpose and remain protected. The DFWP manages those properties with the intent of making them attractive to elk/deer/mountain sheep with a variety of techniques, including grazing strategies, removing conifers that affect forage abundance, and restricting public access during the winter to minimize disturbance and potential displacement of big game animals to adjacent private lands.
- Securing and managing WMAs and conservation easements benefits species of concern including declining grassland birds, shorebirds, and swift fox (e.g., Gordon Cattle Co. conservation easement); lynx, bull trout, grizzly bear habitats (e.g., Marshall Creek, Bull River, and Fish Creek WMAs and North Swan Valley conservation easement); riparian-dependent bird species (the Milk River Initiative, various Yellowstone River land projects); sagebrush grassland-dependent species such as sage-grouse or Brewer's sparrows (e.g., Cowell and Raundal Coulee conservation easements).

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<sup>65</sup> Ibid, page 56.

## Operations and Maintenance (O&M)

Pursuant to 87-1-242, MCA, 20% of the Habitat Montana funds are used for development and maintenance of wildlife habitat. Up to half of those funds may be used in each year. The other half, and any funds from the first half that are not allocated by the end of each odd-numbered fiscal year, is credited to a permanent account. Interest from the account may also be used for the operation, development, and maintenance of wildlife habitat.

This generates about \$800,000 annually. In addition, more than \$1 million in non earmarked hunting license revenue, federal Pittman-Robertson funds, and state and federal grants are also used for operations and management costs each year.<sup>66</sup>

Of the Habitat Montana funds, the DFWP uses about \$25,000 annually to monitor conservation easements.

### Good Neighbor Policy

The DFWP says the majority of the Habitat Montana O&M funds are used to meet the intent of the Good Neighbor Policy prescribed by the legislature in 23-1-126, MCA. It seeks for DFWP lands to have no impact upon adjoining private and public lands from noxious weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy.

The policy was enacted in 1999 via House Bill No. 314. It originally applied only to state parks and fishing access sites, but was expanded by the 2009 Legislature (Senate Bill No. 164) to include recreational land acquired for public hunting, trapping, or outdoor recreation. This brought wildlife habitat into play.

The Good Neighbor Policy required the DFWP to place maintenance as a priority over additional development at its sites. Meanwhile, 87-1-209, MCA, was amended by SB 164 to require the DFWP to secure 20% in funding above the purchase price of any acquisition (up to \$300,000) to pay for maintenance of DFWP lands.

That provision and the components of the Good Neighbor Policy that applied to wildlife habitat terminated June 30, 2013. Between Fiscal Years 2009 and 2013, the requirements of SB 164 netted \$1.74 million for wildlife habitat maintenance.<sup>67</sup> The DFWP spent \$1.49 million in that same time period for a range of activities on various WMAs, including fencing, roads, and weed control.

Though SB 164 terminated, the DFWP says it's still applying the intent of the Good Neighbor Policy to wildlife habitat.

### Forestry Program

The 2009 Legislature passed House Bill No. 42, requiring the DFWP to address fire mitigation, pine beetle infestation, and wildlife habitat enhancement with a priority on forested lands larger than 50 acres. The bill requires the DFWP to reinvest revenue from those forest treatment projects into future projects.

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<sup>66</sup> Habitat Montana Report to the 64<sup>th</sup> Legislature, Montana Fish, Wildlife, and Parks Wildlife Division, January 2015, page 8.

<sup>67</sup> Fish, Wildlife, and Parks Maintenance Accounts Report, June 30, 2013, page 5.

In 2011, the Legislature added a provision with House Bill No. 619 requiring the DFWP to calculate an annual sustainable yield<sup>68</sup> on its forested lands and adopt a forest management plan based on that yield. The report found that about 151,000 DFWP acres have potential commercial forest value with 37.7% available for harvest. WMAs had the most available acres with more than 50,700 of the 57,403 available acres identified.<sup>69</sup>

The 2015 Legislature authorized the hiring of a forester by the DFWP to help develop the forestry program and forest management plans and to keep forest projects on schedule. The position was filled in August 2015, but its funding is one-time-only. The DFWP says converting this FTE into a permanent base position is a priority in the next legislative session.

The DFWP says it completed a number of forest management projects on the Mt. Haggin, Fleecer, West Kootenai, Marshall Creek, Threemile, and Blackfoot Clearwater WMAs. Objectives included mitigating hazard fuels, reducing mountain pine beetle risk, promoting forage, aspen, and resiliency, and removing conifers from grass/sagebrush/bitterbrush habitats. More than 2,000 acres were treated and more than 49,000 tons (approximately 7 million board feet) of sawlogs, houselogs, pulp, and firewood were harvested.

The projects cost \$212,640. Seventy-three percent of the funds came from the DFWP's Forest Management Account and Habitat Montana. The rest came from a \$41,000 grant from the DNRC, a \$9,000 grant from the Mule Deer Foundation, and an \$8,000 grant from the Rocky Mountain Elk Foundation. Total estimated revenue from the projects is \$939,591.

There are ongoing forest management projects on the Sun River and Threemile WMAs. Conifer removal and thinning will occur on 807 acres to enhance forage production, improve elk winter range, reduce mountain pine beetle risk, and mitigate hazardous fuels. The estimated cost is \$150,580.

Blackfoot-Clearwater and Mt. Silcox WMAs are slated for projects on at least 1,330 acres. Treatments will include thinning, salvage, hazardous fuels reduction, and conifer removal. Estimated costs are at least \$453,077.

### **Wildlife Management Areas**

Day-to-day operation of WMAs in Fiscal Year 2015 accounted for \$1.53 million or 57.5% of the HB 2 appropriations used by the Wildlife Division for habitat management. Of that 67% was for personal services and 33% for operating expenses. The DFWP attributes 28.53 FTE specifically to wildlife habitat management. Most of those (17.74 FTE) are dedicated to WMAs.

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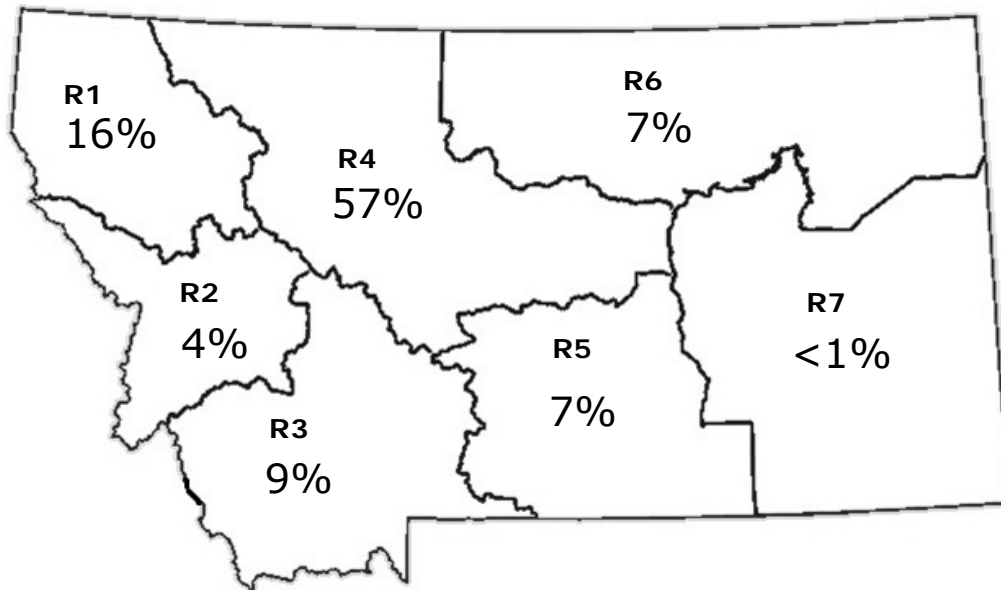
<sup>68</sup> 87-1-622, MCA, defines "annual sustainable yield" as the quantity of timber that can be harvested each year, taking into account the ability of forested lands to generate replacement tree growth and any applicable state and federal laws pertaining to wildlife, recreation, maintenance of watersheds, and water quality standards that protect fisheries and aquatic life.

<sup>69</sup> State of Montana Department of Fish, Wildlife, and Parks 2013 Forest Inventory and Sustained Yield Calculation, Mason, Bruce & Girard, Inc, December 31, 2013, pages vi-viii.

For the 2016 construction season, the DFWP scheduled \$1.17 million in capital projects at WMAs. The 40 projects, listed in Appendix D, include nine fencing projects, eight building repair/maintenance or storage/equipment facility additions, six parking and road improvement projects, three weed control projects, and three irrigation or water control projects.

The expected percentage of FY 2016 capital expenditures by region are depicted in the following chart.

### Percentage of WMA Capital Expenditures by Region, FY 2016



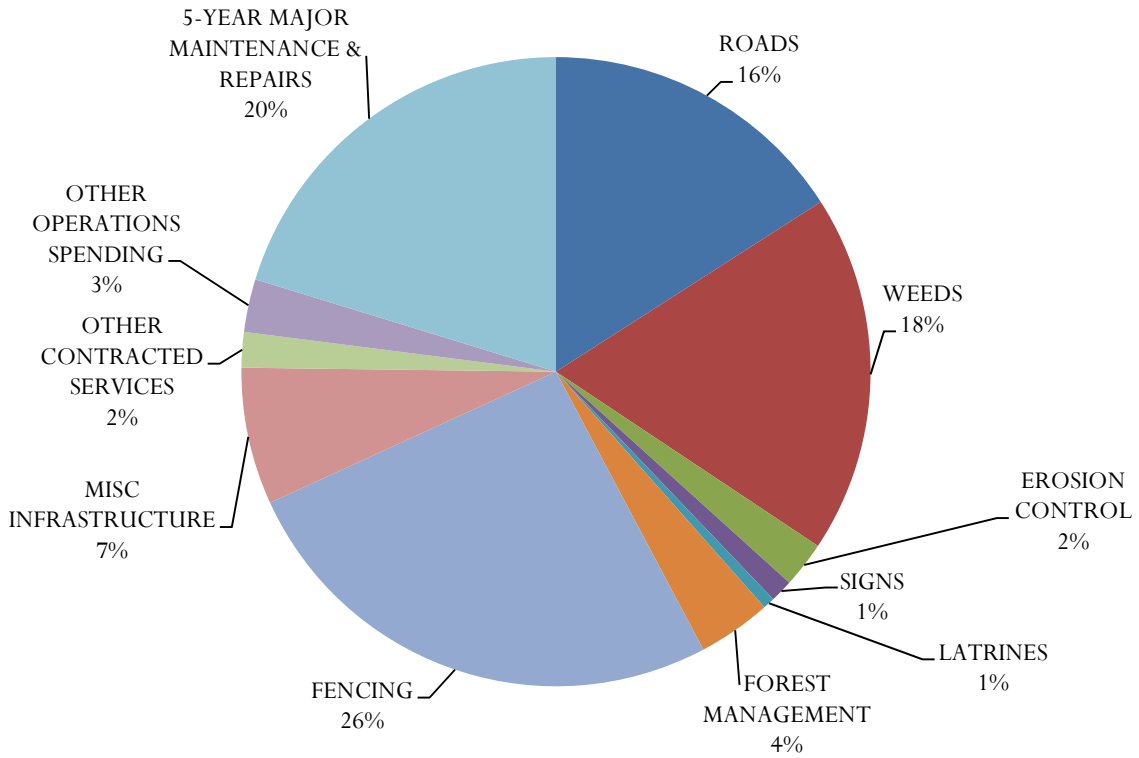
The DFWP considers the following guidelines when it prioritizes its O&M funding:

- compliance with the Good Neighbor statute;
- existing or potential public safety hazards
- projects necessary to meet prior obligations;
- urgency;
- consistency with a management plan;
- cost-effectiveness;
- feasibility;
- improved public use;
- outside funding/partnerships; and
- habitat enhancement for priority species, on state priority habitats, for multiple species, or on larger landscapes.

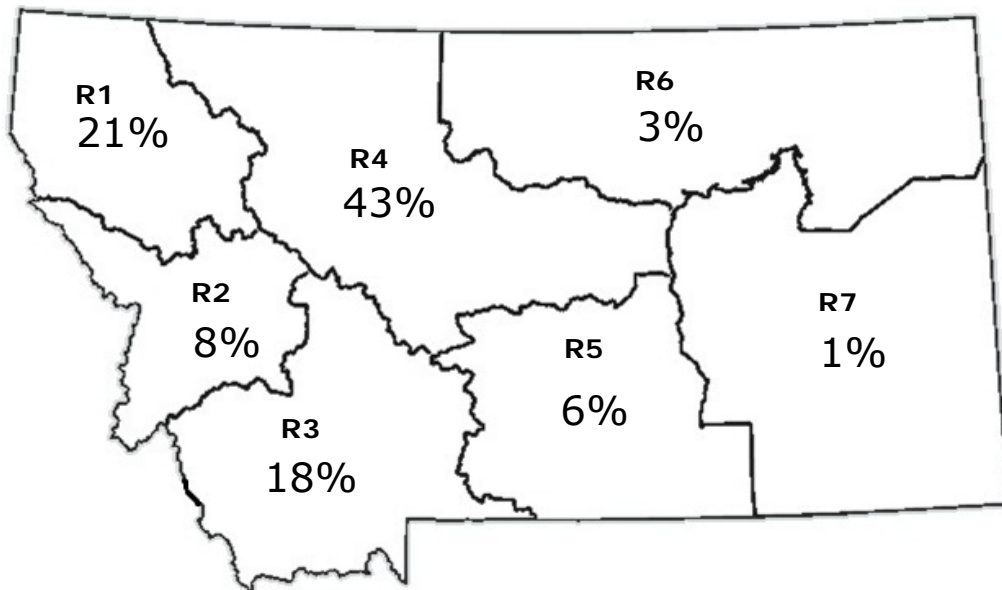
Beyond this year's projects, the DFWP has \$3.7 million in projected WMA O&M costs – those that don't fit in the existing budget – for Fiscal Years 2016 through 2020. (See Appendix E.)

The following two charts depict the percent of projected costs by type (weeds, roads, etc.) and by region.

**Percent of Projected WMA O&M Costs by Type, FY 2016-2020**  
**\$3,723,646**



**Percent of Projected WMA O&M Costs by Region, FY 2016-2020**



The 5,845-acre Marias River WMA, acquired by the DFWP in 2008, is the driving force behind the projected costs in Region 4. A neighbor's challenge to access on the east side of the WMA slowed establishment of boundary fences (an estimated \$150,000) and developing and improving roads on that end of the property (another estimated \$150,000). Other projected costs at Marias River include \$30,000 for ongoing weed control and \$75,000 for miscellaneous infrastructure ranging from development of water from an existing pipeline or a well to leveling and graveling one or more parking areas.

Also in the "major maintenance" category in Region 4, \$500,000 is earmarked to replace and maintain water conveyance infrastructure at the Freezout Lake WMA. This includes the anticipated replacement of a 36-inch pipe that runs about 150 yards under Highway 89, which would be completed when the highway is reconstructed.

In Region 1, 36.5% of the projected costs is for weed control. The DFWP says there are extensive infestations that need considerable attention. A new manager in the area anticipates a significant new push and ongoing effort in coordination with neighboring properties using targeted chemical treatments and extensive biocontrols.

In Region 3, a majority of the projected costs is for weeds (\$165,500) and fencing (\$337,000). Most of the fencing costs are for boundary fencing where there is grazing on a WMA or adjacent lands or for replacement fencing (Canyon Ferry, Dome Mountain, Fleecer, Blacktail, Lake Helena, Wall Creek, Canyon Creek, and Mt. Haggin WMAs).

## Technical Assistance (Land Use)

The DFWP routinely provides technical assistance and recommendations for habitat and land use related to wildlife management. Projects include forest planning (timber harvest), energy development, actions in sage grouse habitat, and grazing.

At the regional level, the DFWP spent \$351,450 in general license revenue and P-R funds on technical guidance in Fiscal Year 2015. Ninety percent went to personal services, with the rest going to operating expenses. The DFWP specifically attributes 3.627 FTE to technical guidance. The following is a description of some of the kinds of assistance the DFWP provides.

### State Wildlife Action Plan

The 2015 State Wildlife Action Plan (SWAP) identifies three broad actions for planning and review by DFWP:<sup>70</sup>

- Assist in the review of land use proposals completed by land management agencies that may affect habitat in greatest need of conservation and provide recommendations to minimize impacts.
- Work with other agencies, organizations, and interested parties to promote habitat conservation and management to benefit species in greatest need of conservation.
- Consider species in greatest need of conservation and their habitats during development of management plans for WMAs, Fishing Access Sites, and State Parks.

The SWAP outlines various actions the DFWP can take to help other entities prevent impacts and threats to terrestrial habitats from fragmentation, pollution/contamination of resources, land management, wind energy, recreation, climate change, land use change, and invasive species, including:<sup>71</sup>

- Encourage counties and communities to use DFWP's *Fish and Wildlife Recommendations for Subdivision Development*;
- Review and comment on subdivision requests and energy development projects;
- Work with landowners and land management agencies to implement best management practices for species in greatest need of conservation, develop sustainable grazing systems, limit impacts of hard rock mining, and limit activities that may further fragment the landscape;
- Offer technical assistance to other agencies engaged in remediation of abandoned mines; and
- Work with watershed groups to clean up nonpoint pollution sources.

### Montana Wetland Council

The DFWP actively participates in the Montana Wetland Council, housed at the Department of Environmental Quality (DEQ). The Council is a forum for stakeholders, including private landowners, federal, state, tribal, and local governments, and private and nonprofit organizations, to participate in wetland issues.

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<sup>70</sup> Montana's State Wildlife Action Plan 2015, Montana Fish, Wildlife, and Parks, January 9, 2015, page 60.

<sup>71</sup> Ibid, pages 60-64.

In 2008, the Council published a strategic framework for wetland and riparian area conservation in Montana. The framework, which was updated in 2013, was approved by the governor and the Directors of the DFWP, DEQ, and the Department of Natural Resources and Conservation as the state plan for wetlands and riparian areas. Staff for the Council says the DFWP is instrumental in identifying potential projects, partners, and funding.

### **Stream Protection**

In 1965, the Legislature adopted Title 87, chapter 5, part 5, MCA, declaring that Montana's fish and wildlife resources are to be protected and preserved so that they are available for all time, without change, in their natural existing state, except as may be necessary and appropriate after due consideration of all factors involved.

Pursuant to 87-5-504, MCA, the DFWP must review projects proposed by any agency or subdivision of state, county, or city government to determine if they would obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries. Commonly known as the SPA 124 permit, this review is required for the construction of new facilities or the modification, operation, and maintenance of an existing facility.

If the DFWP determines that a project would adversely affect any fish or game habitat, the department notifies the project applicant of recommendations or alternative plans that would eliminate or diminish the negative impacts. There is an arbitration process outlined in 87-5-505, MCA, for applicants who refuse to modify their plans.

### **Elk Habitat Management**

In 2013, biologists from the DFWP and the USFS compiled recommendations for elk habitat management on the Custer, Gallatin, Helena, and Lewis and Clark National Forests. The recommendations consider increased recreation of all types on the forests, changes in numbers and distribution of elk, restoration of large predators, the mountain pine beetle epidemic, and wildlife.

### **Fencing**

With nearly 65% of Montana held in private ownership, landowners are central to conserving habitat. One way the DFWP provides technical assistance to landowners is in regard to wildlife-friendly fences.

Researchers in Utah learned in the mid-2000s that, on average, one ungulate per year was found tangled for every 2.5 miles of fence.<sup>72</sup> According to the study, most died by getting caught in the top two wires while trying to jump. Woven wire topped with a single strand of barbed wire was the most lethal, as legs were easily caught between the two.

The DFWP publishes a guide to help landowners build wildlife friendly-fencing, taking into consideration the purpose of the fence, the topography of the landscape, and species in the area. The guide promotes adding fence flags or markers to increase the visibility of wires for wildlife, especially birds like sage-grouse.

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<sup>72</sup> A Landowner's Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind, Montana Department of Fish, Wildlife, and Parks, Second Edition Revised and Updated 2012, page 7.



The guide is useful for state agencies as well. It highlights wildlife jumps (e.g., dirt ramps at corner crossings) installed by the Department of Transportation that allow animals to escape the highway right-of-way.

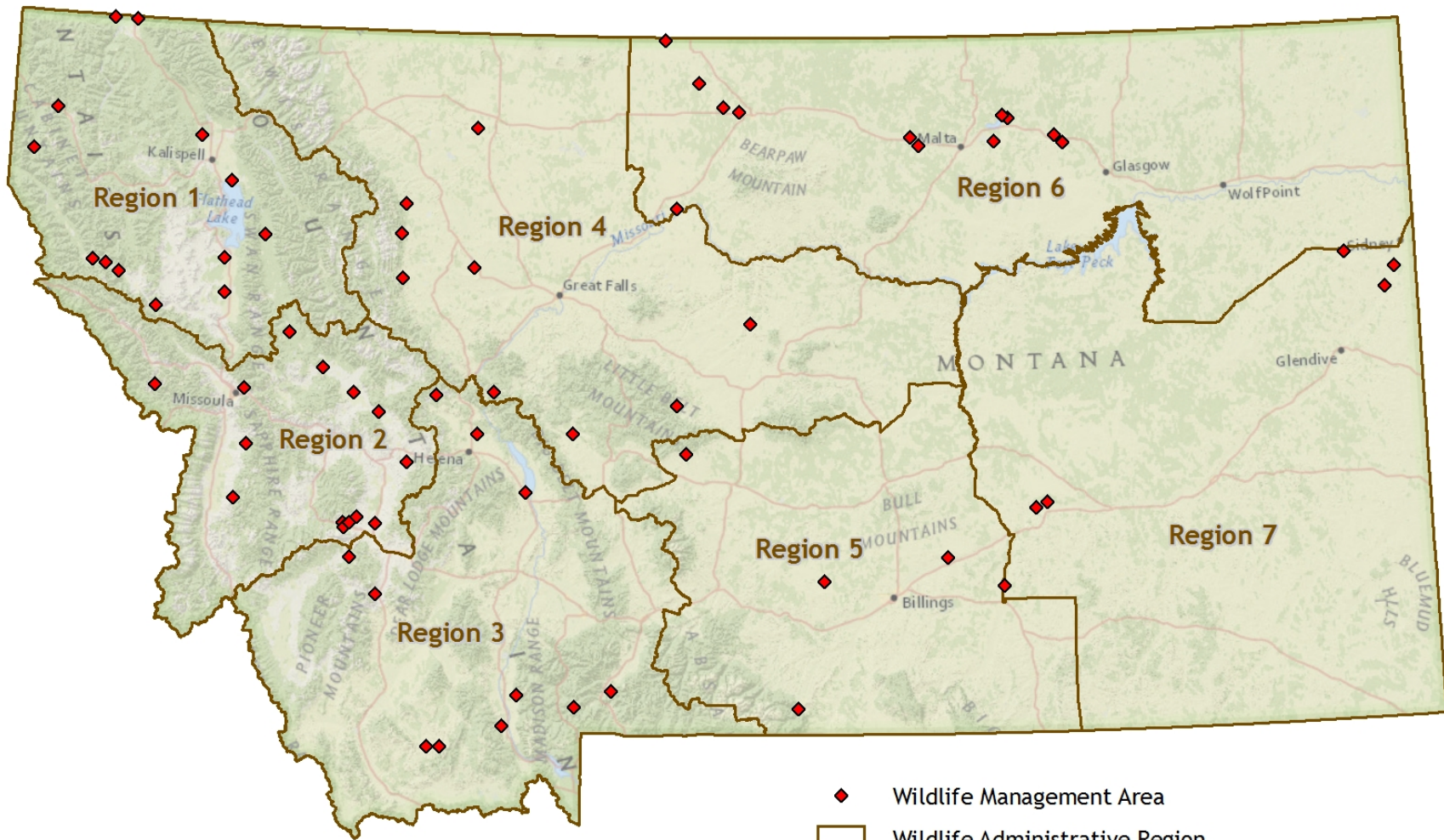
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## Acronyms Used in This Report

ALE	Agricultural Land Easements
BMP	Block Management Program
BPA	Bonneville Power Administration
CRP	Conservation Reserve Program, USDA
DEQ	Department of Environmental Quality
DFWP	Department of Fish, Wildlife, and Parks
FLP	Forest Legacy Program
FTE	Full time equivalent
HCP	Habitat Conservation Plan
LIP	Landowner Incentive Program
LWCF	Land and Water Conservation Fund
MBWP	Migratory Bird Wetland Program
NAWCA	North American Wetlands Conservation Act
NFWF	National Fish and Wildlife Foundation
NRCS	Natural Resources Conservation Service
NRDP	Natural Resource Damage Program
O&M	Operations and Maintenance
P-R	Pittman-Robertson
SWAP	State Wildlife Action Plan
SWG	State Wildlife Grant
UGBEP	Upland Game Bird Enhancement Program
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
VPA-HIP	Voluntary Public Access and Habitat Incentive Program, USDA
WHPA	Wildlife Habitat Protection Area
WMA	Wildlife Management Area

## DFWP Wildlife Division Acquisitions, FY 2015

Site Name	Cost	Acres	Transaction Date	Funding Sources
<b><u>Conservation Easements</u></b>				
Buffalo Coulee	\$ 450,000	2,778	11/13/2014	Habitat MT
Pheasant Bend	\$ 280,000	294	6/15/2015	Habitat MT, Northwestern Energy, MT Outdoor Legacy Foundation, Safari Club Int'l, Ducks Unlimited
<b><u>Fee Title</u></b>				
Garrity Mountain WMA addition	\$ 1,380,000	640	11/14/2014	NRDP, Habitat MT, Fish and Wildlife Conservation Trust
Big Lake WMA Addition	\$ 24,000	160	12/10/2014	Migratory Game Bird Program
Beartooth WMA Addition	\$ 4,075,000	2,840	12/18/2014	P-R, Habitat MT
Fish Creek WMA Addition	\$ 350,000	148	1/22/2015	P-R, Thompson Falls Mitigation Fund, Trout Unlimited
<b><u>Land Exchange</u></b>				
Marias River WMA	\$ -	77	2/12/2015	Land Trade
Total	\$ 6,559,000	6,937		



**Table 1.**  
**Upland Game Bird Revenue and Expenditures FY 1988 - 2015**

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		\$590,534	\$10,499		\$15,573		\$26,072	\$966,240
1990	\$966,240	\$596,666		\$596,666	\$21,642	\$88,299	\$10,824		\$120,765	\$1,442,141
1991	\$1,442,141	\$608,631		\$608,631	\$978	\$579,724	\$28,191		\$608,893	\$1,441,879
1992	\$1,441,879	\$665,303		\$665,303	\$5,151	\$701,735	\$50,508		\$757,394	\$1,349,788
1993	\$1,349,788	\$682,279		\$682,279	\$1,884	\$1,053,655	\$52,850	\$107,415	\$1,215,804	\$816,263
1994	\$816,263	\$659,332		\$659,332	\$571	\$836,718	\$24,563	\$114,163	\$976,015	\$499,580
1995	\$499,580	\$685,515		\$685,515	\$1,299	\$991,396	\$41,342	\$62,753	\$1,096,790	\$88,305
1996	\$88,305	\$681,767		\$681,767	\$26,193	\$326,577	\$50,240	\$119,202	\$522,212	\$247,860
1997	\$247,860	\$740,955		\$740,955	\$55,437	\$714,248	\$53,936	\$55,499	\$879,120	\$109,695
1998	\$109,695	\$736,241		\$736,241	\$116,178	\$598,624	\$37,281	\$96,682	\$848,765	-\$2,829
1999	-\$2,829	\$746,389		\$746,389	\$35,403	\$108,920	\$56,263	\$53,177	\$253,763	\$489,797
2000	\$489,797	\$780,339	\$39,339	\$819,678	\$1,821	\$148,452	\$55,545	\$21,110	\$226,928	\$1,082,547
2001	\$1,082,547	\$671,776	\$72,266	\$744,042	\$11,200	\$184,830	\$40,529	\$22,106	\$258,665	\$1,567,924
2002 Adjustment*				\$0				\$178,413	\$178,413	-\$178,413
2002	\$1,389,511	\$669,710	\$47,998	\$717,708	\$40,878	\$144,321	\$60,957	\$16,564	\$262,720	\$1,844,499
2003	\$1,844,499	\$636,343	\$29,043	\$665,386	\$84,003	\$197,528	\$61,594	\$27,469	\$370,594	\$2,139,291
2004	\$2,139,291	\$690,078	\$24,406	\$714,484	\$99,836	\$107,527	\$49,143	\$28,395	\$284,901	\$2,568,874
2005	\$2,568,874	\$675,917	\$61,550	\$737,467	\$94,839	\$101,433	\$53,614	\$18,976	\$268,862	\$3,037,479
2006	\$3,037,479	\$680,941	\$118,025	\$798,966	\$114,232	\$746,713	\$56,496	\$45,603	\$963,044	\$2,873,401
2007	\$2,873,401	\$697,654	\$152,134	\$849,788	\$130,100	\$368,425	\$47,690	\$24,877	\$571,092	\$3,152,097
2008	\$3,152,097	\$701,343	\$130,381	\$831,724	\$131,609	\$508,739	\$82,381	\$23,187	\$745,916	\$3,237,905
2009	\$3,237,905	\$699,147	\$53,315	\$752,462	\$161,269	\$241,910	\$100,635	\$27,580	\$531,394	\$3,458,973
2010	\$3,458,973	\$680,704	\$11,407	\$692,111	\$124,410	\$203,478	\$266,063	\$32,533	\$626,484	\$3,524,600
2011	\$3,524,600	\$681,367	\$9,889	\$691,256	\$112,002	\$677,458	\$158,330	\$56,272	\$1,004,062	\$3,211,794
2012	\$3,211,794	\$555,297	\$9,418	\$564,715	\$83,235	\$305,453	\$168,420	\$31,157	\$588,265	\$3,188,244
2013	\$3,188,244	\$603,620	\$7,781	\$611,401	\$79,568	\$334,373	\$163,412	\$34,479	\$611,832	\$3,187,813
2014	\$3,187,813	\$582,488	\$4,333	\$586,821	\$75,535	\$387,273	\$165,773	\$23,465	\$652,046	\$3,122,588
2015	\$3,122,588	\$646,083	\$4,119	\$650,202	\$60,008	\$166,208	\$129,864	\$23,714	\$379,794	\$3,392,996
<b>TOTALS</b>		<b>\$18,472,829</b>	<b>\$775,404</b>	<b>\$19,248,233</b>	<b>\$1,679,780</b>	<b>\$10,824,017</b>	<b>\$2,106,649</b>	<b>\$1,244,791</b>	<b>\$15,855,237</b>	

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

I:\BUDGET\Deel05 Wildlife\UGB\UGB PROGRAM rev\_exp FY88\_15.xlsx]Sheet1

Funded WMA O&M Projects for the 2016 construction season						Funding Source					Comments
Row #	Region	WMA	Project	Title	Description	Capital	O&M 5885 (FY16)	WEEDS 5886 (FY 16)	NRD	Other	
1	1	Mt Silcox	Boundary Fence	Mount Silcox Boundary Fence Project	original fence from when purchased in 1989. 6 miles of old fence needs to be removed and replaced	\$ 69,000					
2	1	Ray Kuhns	Boundary Fence	Ray Kuhn's WMA Boundary Fence Project	5 miles of fence	\$ 58,000					
3	1	Mt Silcox	Weed Control	Mount Silcox Noxious Weed Project	intended work for fy16, combination of herbicide and biocontrol, Knapweed			\$ 30,000			
4	1	Woods Ranch	Irrigation Diversion Corrections	Woods Ranch Diversion Fixes	Make changes to diversion consistent with water court requirements; establish hardened crossing for accessing site	\$ 33,000					
5	2	Aunt Molly	Boundary Fence	Aunt Molly Boundary Fence -Pocha	about 1 mile of fence to inhibit trespass livestock. Current fence is old and needs constant attention	\$ 13,000					
6	2	Blackfoot Clearwater	Parking Barrier	BCWMA Parking Barrier Al's Draw	parking area at Al's Draw. Needed to curtail road use beyond gate/parkign area		\$ 1,600				
7	2	Blackfoot Clearwater	Boundary Fence	BCWMA Elk Lay Down Fence - Reihoehl	9000 feet of boundary fence, shared boundary with Reinoehl propoerty	\$ 24,000					
8	2	Garrity	Viewing and Parking Areas	Garrity Mtn New Addition Viewing and Parking	establish parking and viewing areas associated with the new addition on the Garrity Mtn WMA. FUNDING FROM RMEF					\$ 8,200	RMEF Funds, per earlier maintenance funding agreement when land was purchased
9	3	Canyon Ferry	Biocontrol	CFWMA Biocontrol	primarily targetting Canada thistle and spotted knapweed			\$ 6,000			
10	3	Canyon Ferry	Irrigation Pipeline	Campbell Lease Buried Mainline	bury mainline that services center pivot irrigation	\$ 4,000					
11	3	Canyon Ferry	Boundary Fence	CFWMA Boundary Fence	to be matched with BOR funding, see map of priority segments	\$ 10,000				\$ 10,000	BOR funding (\$10K) and Habitat MT capital (\$10K) submit as Real Property Trust Funding request
12	3	Canyon Ferry	Office Roof maintenance	CFWMA Office Roof	replace shingles, roof has a few leaks					\$ 4,000	
13	3	Wall Creek	Water pipeline, hydrant and electrical service	Wall Creek Hydrant	provide electrical service to out building and bury waterline to provide water hydrant away from residence for mixing herbicides and washing equipment	\$ 17,000					
14	3	Wall Creek	Work on new Addition - Removal and reclamation	Wall Creek Addition Reclamation	Anticipated need to remove foundation and restore pond area and other developed sites to stable, seeded vegetation	\$ 20,000					
15	3	Canyon Ferry	Fish Barrier Pond 4	CFWMA Fish Barrier						\$ 40,000	contingent on application process for Mig Bird Wetland Habitat Program funding
16	4	Freezout Lake	Storage building	Freezout Equipment & Materials Storage	storage building for chemicals, flammables, and equipment at Freezout					\$ 150,000	submit as Real Property Trust Funding request and PR grant
17	4	Beartooth	Road Gravel & Repairs	Beartooth Road Gravel and Grade	1.5 miles of road improvement in collaboration with Lewis and Clark county. Continuation of road work onto the WMA	\$ 60,000					
18	4	Beartooth	Cabin maintenance on Whitetail Prairie Addition	BTWMA - Whitetail Pr Cabin Mtnc	replace roof, siding facia and window cladding	\$ 40,000					
19	4	Beckman	Building Removal	Beckman buildings removal	A-frame cabin and calving barn removed.	\$ 25,000					
20	4	Freezout Lake	Boat Ramps	Freezout Boat Ramps	Construct 3 new boat ramps at Ponds 1, 3, and 4 for accomodating larger boats for recreation and administration purposes	\$ 15,000					
21	4	Smith River	Boundary Fence	Smith River Fence Replacement	Replace 2 miles of boundary fence on west side of WMA. Last remaining old fence.	\$ 30,000					
22	4	Beckman	Grazing Pipeline	Beckman Water Line Extension	extend pipeline into north end of property to improve cooperative grazing system on the WMA	\$ 25,000					
23	4	Marias	Boundary Fence	Marias Fencing	See map of priorities. This funding would accomplish approximately 5 miles of fence	\$ 75,000					
24	4	Marias	Public Road Improvements	Marias Road Access Improvements	improvements to Lincoln access road and associated parking area near the Lincoln Buildings	\$ 150,000					
25	4	Marias	Admin Trail Improvements	Marias Admin Trail	improvements to <u>existing</u> trails to make them functional for admin use only. No new trails at this time.	\$ 25,000					
26	4	Marias/ Beckman	Biocontrol	R4 Biocontrol and Salt Cedar Herb	biocontrol on Marias and herbicide treatment for salt cedar control on Beckman			\$ 7,000			
27	4	Judith	Doors Replacement	Judith Garage Doors	replacement of garage and walk in doors on two garage's		\$ 4,000				changed to 5885 from capital per conversation with Schlepp, notified Paul and Sue 1/26/16

Funded WMA O&M Projects for the 2016 construction season						Funding Source					Comments	
Row #	Region	WMA	Project	Title	Description	Capital	O&M 5885 (FY16)	WEEDS 5886 (FY 16)	NRD	Other		
28	4	R4	WMA Signs	R4 Specialty Signs	signs replacement for Freezout closed area, Beartooth addition, Blackleaf addition, seasonal closures, Marias River road with maps		\$ 5,000					
29	4	R4	Steel materials	Steel fabrication materials	materials for fabrication and repairs, to have on hand		\$ 8,000					
30	4	R4	Latrine Pumping	R4 Latrine Pumping	15 latrines involving 8 wmas in R4		\$ 4,500					
31	4	R4	Electric Fence Materials	R4 Electric Fence	all materials for electric fence to replace 20+ year old worn and damaged components		\$ 18,000					
32	4	R4	Car counter replacement	R4 Car Counters	5 counters to be used on various R4 WMAs		\$ 2,000					
33	4	Bullhead DNRC	Fence Management Lease Area	Bullhead UGB Management Lease	Construct a fenced enclosure for restricting livestock grazing to enhance cover for upland game birds and hunting access					\$ 20,000		Design and Construction project, funded via Upland Game Bird Enhancement Program Fund
34	5	Big Lake	Public Road Improvements	Big Lake Road Improvement	shape up existing two track and bring in rock for hardening some segments	\$ 61,000						
35	5	Haymaker	Public Road Improvements	Haymaker Access Road	three miles of easment road that is the access route to the WMA and adjacent USFS lands	\$ 15,000						seeking cost share via USFS
36	6	Area 8	Water Control	Area 8 Water Control Replacement	replace two half round drop log structures and associated concrete headwall	\$ 30,000						
37	6	Olsen CE	Permanent cover plantings	Olson CE Permanent Cover	establish permanent cover plantings on the Olsen Conservation Easement		\$ 3,700					
38	6	Cree Crossing	Equipment Storage Building	Cree Crossing Storage	building for storage and of equipment - tractor, four wheeler, fencing supplies, etc.	\$ 30,000						
39	6	Rookery	Permanent cover plantings	Rookery Habitat Improvement	contract for farming two former cropland fields and reseeded to better cover, associated irrigation for 2 years	\$ 16,000				\$ 4,000		Capital to pay for farming and herbicide; UGBEP to pay for grass seed
40	7	Elk Island	Entrance Sign	Elk Island Sign			\$ 250					
<b>Total Estimate</b>						\$ 845,000	\$ 47,050	\$ 43,000	\$ -	\$ 236,200	\$	1,171,250

**WILDLIFE MANAGEMENT AREA O & M PROJECTED COSTS FY 16 - FY 20**

	ROADS	WEEDS	EROSION CONTROL	SIGNS	LATRINES	FOREST MANAGE.	FENCING	BOAT RAMPS	MISC INFRA STRUCTURE	OTHER CONTRACTED SERVICES	OTHER OPERATIONS SPENDING	ANNUAL ADMIN HOURS	ANNUAL FIELD HOURS	5-YEAR MAJOR MAINTENANCE & REPAIRS	Total	Comments
<b>Region 1 WMA</b>	29000	284500	2500	10250	2500	40000	187000	0	75000	51500	70000	1396	1188	25000	\$ 777,250	includes considerable expenditure on WMA forest inventory and forest management startup costs (\$290,000) reduced to \$40,000
<b>Region 2 WMA</b>	101400	124278	23700	0	0	29900	12000	0	11000	12000	0	315	1279		\$ 314,278	includes \$345,000 from NRDP
<b>Region 3 WMA</b>	71000	165500	0	20000	0	0	337000	0	14000	0	0	0	6084	77000	\$ 684,500	considerable effort in aerial weed spraying, staffing up in part to accomplish boundary signing, reduced to \$20K from \$40K
<b>Region 4 WMA</b>	255000	60000	50000	2000	20000	70000	367000	0	100000	0	31000	360	400	650000	\$ 1,605,000	includes substantial improvements on Marias, which will be necessary when access is established; Beckman has \$100K for optional improvements (veg and grazing development); potential for large infrastructure updates on Freezout (1953 infrastructure, could require millions in replacement if failure);
<b>Region 5 WMA</b>	120000	38000	10000	2000	0	0	0	0	36500	0	0	40	56	0	\$ 206,500	includes road improvements on Big Lake and Haymaker, totaling \$200K; Reduced to \$60000
<b>Region 6 WMA</b>	11900	7000	0	5600	0	0	57500	0	10000	4000	0	0	0	0	\$ 96,000	
<b>Region 7 WMA</b>	3000	4500	1500	3000	0	0	2000	0	15000	0	0	0	0	0	\$ 29,000	includes bridge for farming lease access that may not be needed due to existing local access easement (\$35K) - reduced to \$15000
<b>Totals</b>	<b>\$ 591,300</b>	<b>\$ 683,778</b>	<b>\$ 87,700</b>	<b>\$ 42,850</b>	<b>\$ 22,500</b>	<b>\$ 139,900</b>	<b>\$ 962,500</b>	<b>\$ -</b>	<b>\$ 261,500</b>	<b>\$ 67,500</b>	<b>\$ 101,000</b>	<b>2111</b>	<b>9007</b>	<b>\$ 752,000</b>	<b>\$ 3,712,528</b>	Of these total project costs, approx. \$350K involves outside funding and \$350K involves estimates of medium priority/optional project developments.
												FTE =	<b>1.01</b>	<b>4.33</b>		