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9 MONTANA SIXTH JUDICIAL DISTRICT COURT
10 PARK COUNTY

11 CITIZENS FOR BALANCED USE; BIG)
GAME FOREVER, LLC; MONTANA) Hon. Nels Swandal
12 OUTFITTERS AND GUIDES ASSN.;)
MONTANA SPORTSMEN FOR FISH AND) Cause No.:
13 WILDLIFE; and REP. ALAN REDFIELD,)
Plaintiffs,) **SUMMONS**
14 vs.)
15 MONTANA FISH, WILDLIFE & PARKS)
16 COMMISSION,)
17 Defendants.)

18 **THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE-NAMED**
19 **DEFENDANT:**

20 **YOU, THE DEFENDANT, ARE HEREBY SUMMONED** to answer the Complaint in this
21 action which is filed in the office of the above-named Court, a copy of which is herewith served
22 upon you, and to file your answer and serve a copy thereof upon Respondent's attorney within
23 42 days after service of this summons, exclusive of the day of service; and in case of your failure
24 to appear or answer, judgment will be taken against you by default, for the relief demanded in
25 the Complaint.

Given under my hand this _____ day of January, 2013, at the hour of _____
o'clock. _____ m.

CLERK OF COURT

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MONTANA SIXTH JUDICIAL DISTRICT COURT
PARK COUNTY

CITIZENS FOR BALANCED USE; BIG
GAME FOREVER, LLC; MONTANA
OUTFITTERS AND GUIDES ASSN.;
MONTANA SPORTSMEN FOR FISH AND
WILDLIFE; and REP. ALAN REDFIELD,

Plaintiffs,

vs.

MONTANA FISH, WILDLIFE & PARKS
COMMISSION,

Defendants.

)
) Hon. Nels Swandal
) Cause No.:

)
) COMPLAINT FOR DECLARATORY AND
) INJUNCTIVE RELIEF

COME NOW the above-named Plaintiffs and for their Complaint against the above-named
Defendants and allege as follows:

I. INTRODUCTION

1. Plaintiffs Citizens for Balanced Use, Big Game Forever, LLC, Montana Outfitters and
Guides Association, Montana Sportsmen for Fish and Wildlife, and Representative Alan

1 Redfield respectfully request this Court to adjudge and declare the Montana Fish, Wildlife and
2 Parks Commission (“FWP” or “Commission”) has violated their right to participate in the
3 operation of state government and their right to know the actions of state government agencies,
4 as guaranteed by the Montana Constitution, Art. II, §§ 8 and 9, as well as statutes and
5 administrative rules implementing these rights, through its illegal closure of wolf hunting and
6 trapping in certain areas of Park County, Montana without prior notice or opportunity to provide
7 an informed comment on this action before adopting it.

8 2. Jurisdiction is proper in this Court because Plaintiffs seek judicial review of a state
9 agency decision under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101,
10 et. seq., and the Montana Declaratory Judgments Act, Mont. Code Ann. § 2-4-506, et. seq. This
11 Court has jurisdiction to set aside an agency decision made in violation of Plaintiffs’
12 fundamental rights to know and participate in government decisions, Mont. Code Ann. § 2-3-
13 114.

14 3. Venue is proper in Park County, Sixth Judicial District, because the suit is against state
15 agencies, the dispute in this case arose in Park County, and multiple plaintiffs reside in Park
16 County. Mont. Code Ann. § 25-2-126.

17 **II. Parties**

18 4. Plaintiff Citizens for Balanced Use (“CBU”) is a 501(c)(3) non-profit organization
19 dedicated to the responsible shared use of public lands, the protection of private property
20 interests, and enhancing multiple use of Montana’s lands and natural resources. CBU is based in
21 Gallatin Gateway, Montana, and has members and supporting organizations throughout
22 Montana, including Park County. Its members include blue and white collar workers, farmers
23 and ranchers, land owners, hunters and anglers, recreationists, veterans, and people of all walks
24 of life. CBU’s members would like the opportunity to continue to hunt or trap wolves near YNP,
25 and they wish to reduce the out of control growth of wolf populations in Montana in order to

1 allow deer, elk and other game species to increase their population, and to reduce threats to
2 livestock.

3 5. Plaintiff Big Game Forever, LLC is a national advocacy organization headquartered in
4 Salt Lake City, Utah, with over 2,000 individual and organizational supporters in Montana. Big
5 Game Forever's supporters in Montana are conservation-minded sportsmen whose efforts are
6 aimed to protect North American wild game populations. Big Game Forever supporters
7 participate not only in advocacy on behalf of wild game populations, they also participate in on-
8 the-ground conservation efforts through regulated hunting of wolves, other predators and
9 sustainable harvest of wild game populations pursuant to the North American Model of Wildlife
10 Conservation. The efforts of Big Game Forever conservationists are targeted to: (1) ensure the
11 legacy of wildlife abundance for future generations; (2) restore healthy big game herds in
12 Montana and across North America; (3) stop expansion of unmanaged and undermanaged wolf
13 populations; (4) limit excessive predation; (5) implement solutions to stop anti-management
14 experimentation and litigation; and (6) protect vital funding mechanisms for conservation of
15 wildlife in North America. Big Game Forever's supporters and members include conservation-
16 minded hunters who wish to hunt or trap wolves near YNP.

17 6. Plaintiff Montana Outfitters and Guides Association ("MOGA") represents over 200 of
18 the top Montana hunting guides, fishing guides and horseback riding pack trip outfitters in
19 Montana, including residents of Park County. MOGA's members include big game and wolf
20 hunters, as well as guides who assist hunters in enjoying Montana's outdoors through hunting
21 and other methods of recreation. MOGA and its members are actively involved in advocating
22 sound public policy to support abundant wildlife populations, limit the rapid spread and
23 population growth of wolves, and seeking a balanced ecosystem of game and non-game species
24 in Montana. MOGA's members include hunters or guides of hunters who wish to hunt or trap
25 wolves near YNP.

1 7. Plaintiff Montana Sportsmen for Fish and Wildlife ("MT-SFW") is a 501(c)(3) non-profit
2 organization that advocates effective wildlife management in Montana in order to increase the
3 quality of hunting and outdoor recreation opportunities. MT-SFW's over 800 members include
4 big game and wolf hunters, landowners and ranchers. MT-SFW advocates active involvement in
5 public wildlife policy decision making as described on its web site <<http://www.mt-sfw.org/>>
6 (accessed Jan. 31, 2012):

7 A major goal of Montana Sportsmen for Fish and Wildlife is to make our state's wildlife
8 agency more accountable for its actions, or lack of actions. And we intend to do this by
9 becoming very present, in numbers, at every Fish, Wildlife and Parks Commission meeting
and hearing to insure that the agency realizes exactly what the sportsmen of this state expects
from it, and those who manage our game department.

10 8. Plaintiff Representative Alan Redfield is a newly-elected Montana State Representative
11 and a farmer and rancher in Park County, Montana. Redfield owns livestock who have been
12 preyed upon by wolves on a regular and continual basis for nearly twenty years. The wolves
13 who prey upon his livestock include wolves coming into Montana from Yellowstone National
14 Park. Plaintiff Redfield would like to encourage hunting of wolves near YNP in order to reduce
15 the risk of wolf depredations on his livestock.

16 9. Defendant FWP Commission is the Governor-appointed citizen commission pursuant to
17 Mont. Code Anno. § 2-15-3402, that is responsible for setting policies and adopting rules for
18 managing hunting and wildlife management, including wolf management, under the authority of
19 the State of Montana. Mont. Code Ann. §§ 87-1-301, -304. The Commission was the
20 responsible public body that closed the wolf hunting and trapping season in a selected area
21 within the State of Montana that is the subject of this lawsuit.

22 III. APPLICABLE LAW

23 **Right of Participation:** The public has the right to expect governmental agencies to afford
24 such reasonable opportunity for citizen participation in the operation of the agencies prior to
25 the final decision as may be provided by law. **Mont. Const. Art. II, Sec. 8**

1 **Right to Know:** No person shall be deprived of the right to examine documents or to observe
2 the deliberations of all public bodies or agencies of state government and its subdivisions,
3 except in cases in which the demand of individual privacy clearly exceeds the merits of
4 public disclosure. **Mont. Const. Art. II, Sec. 9**

5 **10.** The Montana Administrative Procedure Act ("MAPA"), beginning at Mont. Code Ann. §
6 2-3-101, requires the people of Montana should be "afforded reasonable opportunity to
7 participate in the operation of governmental agencies prior to the final decision of the agency."

8 **a.** FWP has adopted the Attorney General's model procedural rules implementing MAPA.

9 A.R.M. § 12.2.101(1).

10 **b.** FWP has adopted a policy supporting maximum public participation in its decisions:

11 **Participation of the public is to be provided for, encouraged, and assisted to the fullest**
12 **extent practicable**, consistent with other requirements of state law and the rights and
13 requirements of personal privacy...The intent of these regulations is to **foster a spirit of**
14 **openness and a sense of mutual trust and understanding between the public and the**
15 **department** in efforts to maintain and enhance Montana wildlife resources and outdoor
16 recreation opportunities.

17 A.R.M. § 12.2.301(1)(emphasis added).

18 **11.** Notice of a proposed agency action must be specifically noticed on the agenda for the
19 applicable meeting. "[T]he agency may not take action on any matter discussed unless specific
20 notice of that matter is included on an agenda and public comment has been allowed on that
21 matter." Mont. Code Ann. § 2-3-103(1).

22 **12.** In order to comply with Montana's Constitutional requirement to ensure citizens' right of
23 participation and right to know, an agency must hold a proceeding in accordance with MAPA,
24 Mont. Code Ann. § 2-3-104(2), and must provide appropriate notice in advance of a hearing,
25 Mont. Code Ann. § 2-3-104(3).

13. MAPA requires agencies to provide a method and reasonable opportunity for interested
persons "to submit data, views, or arguments, orally or in written form, prior to making a final
decision that is of significant interest to the public." Mont. Code Ann. § 2-3-111(1).

1 a. FWP has determined that matters of “adoption of wildlife management regulations
2 including the setting of seasons” are department decisions “thought to be of significant
3 interest to the public.” A.R.M. § 12.2.305(1)(a).

4 b. For matters of significant interest to the public, FWP requires:

5 Opportunity for public participation shall be provided by rendering final decisions on
6 these matters at commission meetings which are open to the public and **which have been**
7 **announced in advance** or by offering **opportunity for written comments or hearing**
8 **prior to decisions** which are made by the department through **publication of notice**
9 pursuant to the Montana Administrative Procedure Act.

10 A.R.M. § 12.2.305(2)(emphasis added).

11 14. When an agency proposes to take an action that “directly impacts a specific community
12 or area,” the agency must hold a public hearing in an accessible facility in the affected area or
13 community. Mont. Code Ann. § 2-3-111(2).

14 IV. FACTUAL ALLEGATIONS

15 15. Wolf hunting and harvest in Montana are regulated by the Commission. The
16 Commission has established a regular wolf hunting season which allows a hunter with a valid
17 resident or non-resident wolf hunting license to shoot one wolf per hunting season. The
18 Commission has established a wolf hunting and trapping season that allows resident and
19 nonresident hunters to take one wolf with a valid wolf license. Resident and nonresident trappers
20 can take up to three wolves with a valid trapping license, or two wolves via trapping and one
21 wolf via hunting.

22 16. Wolves inside Yellowstone National Park (“YNP”) are not subject to Commission
23 hunting and trapping regulations, and are protected by federal law from hunting and trapping
24 inside the confines of YNP. However, wolves are highly mobile animals that often travel across
25 human political boundaries, whether as individuals or in packs, and may be exposed to differing
hunting and trapping regulations, depending upon where they travel.

1 17. During the wolf hunting season in the fall of 2012, multiple wolves coming out of YNP
2 into Gallatin and Park Counties, Montana were shot by hunters in Montana. The wolves were
3 shot in accordance with the Commission's published rules and regulations, and none of the
4 hunters were accused of any illegal activity.

5 18. For wildlife management practices, research, response to livestock depredations and other
6 purposes, wolves in Montana, YNP and other states are often captured and fitted with collars
7 containing Global Positioning System ("GPS") tracking devices, which allow wildlife biologists
8 and managers to track the locations and movements of wolves. Various government agencies,
9 including the Montana Department of Fish, Wildlife & Parks, and the United States Fish and
10 Wildlife Service in cooperation with the National Park Service, participate in these wolf
11 collaring activities. The managing agencies try to collar sufficient wolves to have at least one
12 collared wolf per pack. Collaring wolves is often expensive and difficult to successfully
13 implement.

14 19. Several wolves legally shot by Montana hunters outside of YNP had collars that had been
15 placed on them by either Montana FWP or the United States Fish and Wildlife Services.

16 20. Multiple environmental organizations and officials from federal wildlife management
17 agencies publicly objected to the shooting of collared wolves outside of YNP and called on the
18 Commission to close certain areas outside YNP to wolf hunting and trapping for the duration of
19 the 2012-2013 season or longer.

20 21. The Commission scheduled a meeting by conference call for Dec. 10, 2012, to take
21 action on three land acquisition matters, and to hear an informational update on the 2012 wolf
22 hunting season. All Commission materials released to the public specified that the wolf harvest
23 update was an informational item only, with no notice to the public that the Commission would
24 take action to change or close any wolf hunting areas.

- 1 a. The Commission issued a press release on Dec. 5, 2012, in which it announced it would
2 take action on three land acquisition issues, and would receive an information update on
3 the wolf hunting season. “The wolf hunting update will include information on the 2012
4 season’s harvest so far and additional information on the upcoming trapping season,
5 which opens Dec. 15. The wolf hunting and trapping seasons will close Feb. 28, 20123.”

6 **Ex. 1 FWP Press Release on Dec. 10, 2012 Meeting** (Dec. 5, 2012)

7 http://fwp.mt.gov/news/newsReleases/commission/nr_0114.html (accessed Dec. 29,
8 2012).

- 9 b. The Commission’s web site page with the Commission Meeting Agenda lists the business
10 item “Wolf Harvest Update – Informational” even after the Commission acted on Dec.

11 10, 2012. **Ex. 2 FWP Commission Meeting Agenda** <

12 [http://fwp.mt.gov/doingBusiness/insideFwp/commission/meetings/agenda.html?meetingI
13 d=27709806](http://fwp.mt.gov/doingBusiness/insideFwp/commission/meetings/agenda.html?meetingId=27709806)> (accessed Dec. 29, 2012).

- 14 c. The detailed Cover Sheet for the business item “Review of 2012 Wolf Harvest” describes
15 the item, in part, “The review will include data on harvest numbers, geographic
16 distribution of harvest, consideration of depredation removals, and overall wolf mortality
17 relative to wolf population model projections.” The cover sheet states, “**Action Needed:**

18 Informational.” (emphasis in original). **Ex. 3 Cover Sheet for Review of 2012 Wolf**

19 **Harvest**

20 [http://fwp.mt.gov/doingBusiness/insideFwp/commission/meetings/agenda.html?covershe
21 et&itemId=27709852](http://fwp.mt.gov/doingBusiness/insideFwp/commission/meetings/agenda.html?coversheet&itemId=27709852) (accessed Dec. 29, 2012).

- 22 d. Prior to the Dec. 10 meeting, the Commission did not publicly issue any documents
23 outlining the proposed changes to the wolf hunting season or even the fact that it was
24 considering changing the wolf hunting season. The Commission did not provide the
25 public with a map of proposed closures prior to the Dec. 10 meeting.

22. During the Dec. 10, 2012 Commission meeting, Chairman Bob Ream and Commissioner Shane Colton advocated closing certain areas near YNP to wolf hunting and trapping in response to the shootings of several collared wolves near YNP. **Ex. 5 Transcript of Dec. 10 Commission Meeting**, pp. 2-3, 9, 11. Commissioners Dan Vermillion and Ron Moody both objected to taking action to change the wolf hunting rules at the Dec. 10 meeting, because the public notice had stated this was an informational item only. *Id.* at p. 2, lines 15-17; p. 3, lines 9-10; p. 10, lines 14-19; p. 11, lines 1-2. Chairman Ream stated it was his opinion and the opinion of FWP's legal counsel that they had the authority to change the wolf hunting and trapping rules at the Dec. 10 meeting. *Id.* at 3, lines 6-12.

23. Plaintiff CBU through its members and leadership team have been actively involved in monitoring public wildlife management and hunting issues in Montana in recent years. Its leaders and members often submit written comments and appear to testify in person before Commission meetings on wildlife issues of concern to its members. If CBU had been aware of the Commission's intention to change the wolf hunting season at the Dec. 10 meeting, its leaders or members would have attended the meeting or submitted written comments on the matter.

24. Plaintiff Big Game Forever and its supporters have been actively involved in public decision making on wolf management, both in Washington, D.C. and in Montana. If Big Game Forever had been aware of the Commission's intention to change the wolf hunting season at the Dec. 10 meeting, its leaders or supporters would have attended the meeting or submitted written comments on the matter.

25. Plaintiff MOGA through its members and leadership team have been actively involved in monitoring public wildlife management and hunting issues in Montana in recent years. Its leaders and members often submit written comments and appear to testify in person before Commission meetings on wildlife issues of concern to its members. If MOGA had been aware of the Commission's intention to change the wolf hunting season at the Dec. 10 meeting, its

1 leaders or members would have attended the meeting or submitted written comments on the
2 matter.

3 26. One of Plaintiff MT-SFW's leaders, Keith Kubista, was present at the FWP Region 2
4 Office in Missoula and participated in the Dec. 10 Commission meeting by conference call. MT-
5 SFW had no prior notice of the Commission's intention to close wolf hunting in key areas. Keith
6 Kubista testified and spoke against the proposed closure, and also testified that the Commission
7 had not provided adequate notice to the public of its proposed action in advance of the meeting.

8 **Ex. 5 Transcript** at p. 23, line 24 – p. 24, line 10.

9 27. Plaintiff Alan Redfield has been actively involved in advocating for balanced wildlife
10 management in Montana, including reducing the number of wolves in order to protect livestock
11 and encourage the population growth of big game animals. Redfield's interest in these matters
12 have caused him to run for and be elected to the Montana Legislature in order to advocate for
13 sound wildlife management policies. If Redfield had been aware of the Commission's intention
14 to change the wolf hunting season at the Dec. 10 meeting, he would have attended the meeting or
15 submitted written comments on the matter.

16 28. At the Dec. 10 meeting, the Commission voted 4-1 (Commissioner Dan Vermillion
17 dissenting) to close two areas in southern Park County near YNP to wolf hunting and trapping
18 for the duration of the 2012-2013 season. The two closed areas are in Hunting District 313, part
19 of Wolf Management Unit 390, and are depicted in the attached map. **Ex. 4 FWP 2012 Wolf**
20 **Closure Map**, FWP Web Site <
21 <http://fwp.mt.gov/hunting/planahunt/huntingGuides/wolf/closure.html> > (accessed Dec. 29,
22 2012). The closures were effective immediately.

IV. Violations of Plaintiffs Constitutional Rights to Know and Participate in State Government Proceedings

Count 1: The Commission violated Plaintiffs' Constitutional right to participate by failing to provide prior public notice and opportunity to participate in the Commission's decision to close certain areas to wolf hunting at its Dec. 10, 2012 meeting.

29. The Commission's published notice, press release, web site and detailed cover sheet for its Dec. 10, 2012 meeting stated the wolf harvest update was an **informational** item. It provided no notice to the public that the Commission would act to close certain areas in Montana to wolf hunting and trapping. It took final action on the decision without prior notice and without giving the public and the Plaintiffs a chance to submit written comments in advance of the decision.

30. The Commission's procedures violated the Plaintiff's fundamental rights guaranteed by the Montana Constitution, as well as multiple statutes and administrative rules implementing this fundamental right.

- a. The Commission violated Art. II, § 8 of the Montana Constitution, "The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law."
- b. The Commission violated MAPA, which requires the people should be "afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency." Mont. Code Ann. § 2-3-101.
- c. The Commission violated MAPA's requirement to provide **specific notice** of the action to close wolf hunting on its agenda in advance of a hearing or proceeding on a government decision. Mont. Code Ann. §§ 2-3-103(1), -104(2) & (3).
- d. The Commission violated its own administrative rules calling for maximum public involvement in decisions, "Participation of the public is to be provided for, encouraged, and assisted to the fullest extent possible..." A.R.M. § 12.2.301(1).

1 e. The Commission violated MAPA's requirement for reasonable opportunity for interested
2 persons "to submit data, views, or arguments, orally or in written form, prior to making a
3 final decision that is of significant interest to the public." Mont. Code Ann. § 2-3-111(1).
4 FWP has determined that matters of "adoption of wildlife management regulations
5 including the setting of seasons" are decisions of significant interest to the public.
6 A.R.M. § 12.2.305(1)(a).

7 f. FWP violated its own internal regulations requiring notice and opportunity to participate
8 in a decision that is of significant interest to the public. A.R.M. § 12.2.305(2).

9 **Count 2: The Commission violated Plaintiffs' Constitutional right to participate by failing**
10 **to hold a public hearing in an accessible facility in an area or community directly affected**
11 **by an agency action that is of significant interest to the public.**

12 31. There is no doubt the regulation of wolf hunting is of significant interest to the public, as
13 demonstrated by the great amount of public involvement in the comment period of any wolf
14 action taken by the Commission. FWP has recognized by administrative rule that decisions
15 regarding adoption of wildlife management regulations are of significant interest to the public.
16 A.R.M. § 12.2.305(1)(a).

17 32. The Commission failed to hold a public hearing, with public notice prior to the meeting,
18 in Park County. Its failure to do so violated Mont. Code Ann. § 2-3-111(2), which requires an
19 agency to hold a public hearing in an area that is directly affected by an agency decision that is
20 of significant interest to the public.

21 **Count 3: The Commission violated Plaintiffs' Constitutional right to know by failing to**
22 **make the Commission's papers, data and maps related to the closure of the wolf season**
23 **available to the public in advance of the Dec. 10 Commission meeting.**

24 33. The Plaintiffs and the public did not have advance access to, or even know of the
25 existence of, any Commission data, papers or maps describing the proposed action to close wolf
hunting in certain areas. It appears at least one of the Commission members did not have access
to the maps of the proposed areas, **Ex. 5 Transcript** at p. 12, lines 18-21:

1 Commissioner [Vermillion]: This is Dan. I just had a quick question. Would you repeat the
2 motion for me because I'm having to just look at the map and try and make sure I understand
it correctly.

3 34. The Commission's failure to provide these documents in advance of its decision violates
4 the Plaintiffs' fundamental rights to examine government documents, Mont. Const. Art. II, § 9,
5 and to have fully informed notice of the Commission's decision in accordance with MAPA and
6 FWP's administrative regulations alleged in Counts 1 and 2 herein.

7 35. The Commission, or some of its members, disclosed this proposed decision in advance of
8 the Dec. 10 meeting to one or more organizations opposed to wolf hunting, resulting in many
9 meeting attendees who are opponents to wolf hunting or trapping. These organizations had
10 advance notice of the proposed action, while Plaintiffs did not. The Commission's or its
11 members' actions to provide selective advance notice to only some wildlife advocates further
12 violates Plaintiffs' constitutional rights.

13 **Count 4: The Commission should be required to pay Plaintiffs' court costs and**
14 **reasonable attorneys' fees because they are initiating this lawsuit to protect and**
15 **vindicate their Constitutional rights.**

16 36. Plaintiffs are entitled to an award of their court costs and reasonable attorney fees
17 pursuant to Mont. Code Ann. § 2-3-221 because they are seeking to enforce their Constitutional
right to know.

18 37. In addition, pursuant to Mont. Code Ann. §27-8-313, Plaintiffs are entitled to an award of
19 their reasonable attorney's fees and costs as successful applicants for a declaration of their rights
20 and status and the obligations of Defendants.

21 38. Attorney fees may further be awarded under the private attorney general doctrine under
22 the following test: 1) the strength or societal importance of the public policy is vindicated by the
23 litigation; 2) the necessity for private enforcement and the magnitude of the resultant burden on
24 the plaintiff; 3) the number of people standing to benefit from the decision; and 4) the equity of
25 imposing attorney fees on the party against whom fees are sought. *See, Montanans for the*

1 Responsible Use of the Sch. Trust v. State, ex rel., Bd. Of Land Commrs, 1999 MT 263, ¶ 66,
2 296 Mont. 402, 989 P.2d 800 (citing Serrano v. Priest, 569 P.2d 1303, 1314 (Cal. 1977)); Finke
3 v. State, ex rel., McGrath, 2003 MT 48, ¶ 33, 314 Mont. 314, 65 P.3d 576.

4 39. Plaintiffs are entitled to an award of their attorneys' fees under Mont. Code Ann. § 27-8-
5 313 or alternatively under the private attorney general doctrine because: this case will vindicate
6 important societal policies; this case requires private enforcement and the magnitude of the
7 resultant burden upon Plaintiffs is great; a large number of people stand to benefit from the
8 decision in this case; it is equitable and right to impose attorney fees upon the Defendants.

9 **V. Prayer for Relief**

10 WHEREFORE, Plaintiffs pray for the following relief:

11 40. For a declaration affirmatively stating the Commission has violated its legal duties under
12 Mont. Const. Art. II, §§ 8 & 9, the Montana Administrative Procedure Act, and administrative
13 regulations protecting Plaintiffs' Constitutional rights to know and participate in government
14 decisions;

15 41. For injunctive relief prohibiting the FWP Commission from further implementing or
16 enforcing the December 10, 2012 Decision to close wolf hunting and trapping in the areas
17 described and depicted in **Ex. 4 FWP 2012 Wolf Closure Map**;

18 42. For a declaration affirmatively setting aside and declaring void the Commission's
19 decision of Dec. 10, 2012 closing certain areas in Park County to wolf hunting and trapping,
20 pursuant to Mont. Code Ann. §§ 2-3-114 & 2-3-213;

21 43. For a declaration affirmatively stating the obligation of the Commission to provide
22 specific public notice in advance of a hearing or meeting to close or change any wildlife seasons,
23 including changes to wolf hunting or trapping in Montana, and to provide public access to
24 documents, data and maps related to the decision in advance of the decision, and to provide the
25

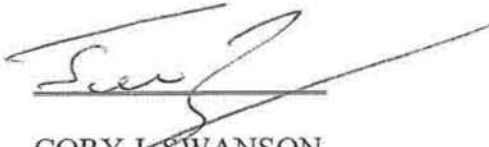
1 public opportunity to testify in person or provide written comments to the Commission before
2 the decision;

3 44. For a declaration affirmatively requiring the Commission to hold a public hearing in
4 Park County in an accessible place prior to making a decision to close wolf hunting or trapping
5 that directly affects Park County as the complained-of decision does;

6 45. For an award to Plaintiffs of its costs and reasonable attorneys' fees as provided by law
7 and equity; and

8 46. For such other relief as the Court may deem just.

9
10 Respectfully submitted and DATED this 2nd day of January, 2013.


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13 CORY J. SWANSON
14 JAMES BROWN

15 Attorney for Plaintiffs
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Certificate of Service

I certify that a true and correct copy of the Citizens for Balanced Use, et. al. v. FWP Commission, Complaint was sent by first-class mail on January 2, 2013 and had-served on the following:

Rebecca Jakes Dockter
Chief Legal Counsel,
Montana Department of Fish, Wildlife & Parks
P.O. Box 200701
Helena, MT 59620-0701
Counsel for Defendants FWP Commission


Cory J. Swanson
Counsel for Plaintiffs

Janet E. Gow

EXHIBIT

1

Commission Slated to Vote on Two Region 6 Land Issues Dec. 10

**Wed Dec 05 08:46:00 MST 2012 ;
Commission - Region 6**

The FWP Commission will meet via conference call Dec. 10 to take final action on three land matters and to hear an update on the state's wolf hunting season.

The call is set to begin at 9 a.m. Conference call connections and public comment opportunities will be offered at each FWP regional office; in Havre at the Great Northern Inn at 1345 1st Street; and at FWP's Helena headquarters, 1420 E. Sixth Ave.

Commissioners will consider approving the 2,992-acre Milk River Ranch purchase north of Havre; a 981-acre purchase that would become part of the existing Seven Sisters Wildlife Management Area on the Yellowstone River near Sidney; and the donation of 1,050 acres on the Missouri River southwest of Big Sandy.

The wolf hunting update will include information on the 2012 season's harvest so far and additional information on the upcoming trapping season, which opens Dec. 15. The wolf hunting and trapping seasons will close Feb. 28, 2013.

For the full agenda and additional information, visit FWP's website at fwp.mt.gov and click on the "For Commission Information" section. FWP ensures its meetings are fully accessible to individuals with special needs. To request arrangements call FWP at 406-444-3186.

EXHIBIT

2

Commission Meeting Agenda



Montana Fish, Wildlife & Parks

COMMISSION MEETING AGENDA

FWP Helena - Conference Call - 1420 East Sixth Ave - Helena, MT

Times May Vary As Much As One Hour - Earlier or Later

DECEMBER 10, 2012

FINAL

DECEMBER 10, 2012

09:00 AM ~ ~ Call to Order ...

§ Call to Order and Pledge of Allegiance



09:05 AM ~ ~ Fish and Wildlife Division ...Ken McDonald, Bureau Chief

§ Milk River Ranch Fee Purchase - Final Part 1



[View Cover Sheet](#)

§ Milk River Ranch Fee Purchase - Final Part 2



§ Seven Sisters WMA Addition - Final



[View Cover Sheet](#)

§ Spring Coulee Fee Donation - Final



[View Cover Sheet](#)

§ Wolf Harvest Update - Informational



[View Cover Sheet](#)

10:25 AM ~ ~ Open Microphone - Public Opportunity to Address Issues Not on Agenda ...

NOTE: Extensive opportunity is provided for public comment on hunting, fishing and trapping regulations. As a matter of equity for citizens who cannot attend Commission meetings, when making final decisions on these regulations, the Commission will not open public comment unless a significant amendment to the tentative proposal is brought forth by the Commission or Department. Comments will be limited to the amendment only.

The Department ensures its meetings are fully accessible to persons with disabilities and if special accommodations are needed, contact Coleen Furthmyre at (406) 444-3186.

EXHIBIT

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FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: December 10, 2012

Agenda Item: Review of 2012 Wolf Harvest

Division: Fish and Wildlife

Action Needed: Informational

Time for this Presentation: 15 minutes

Background

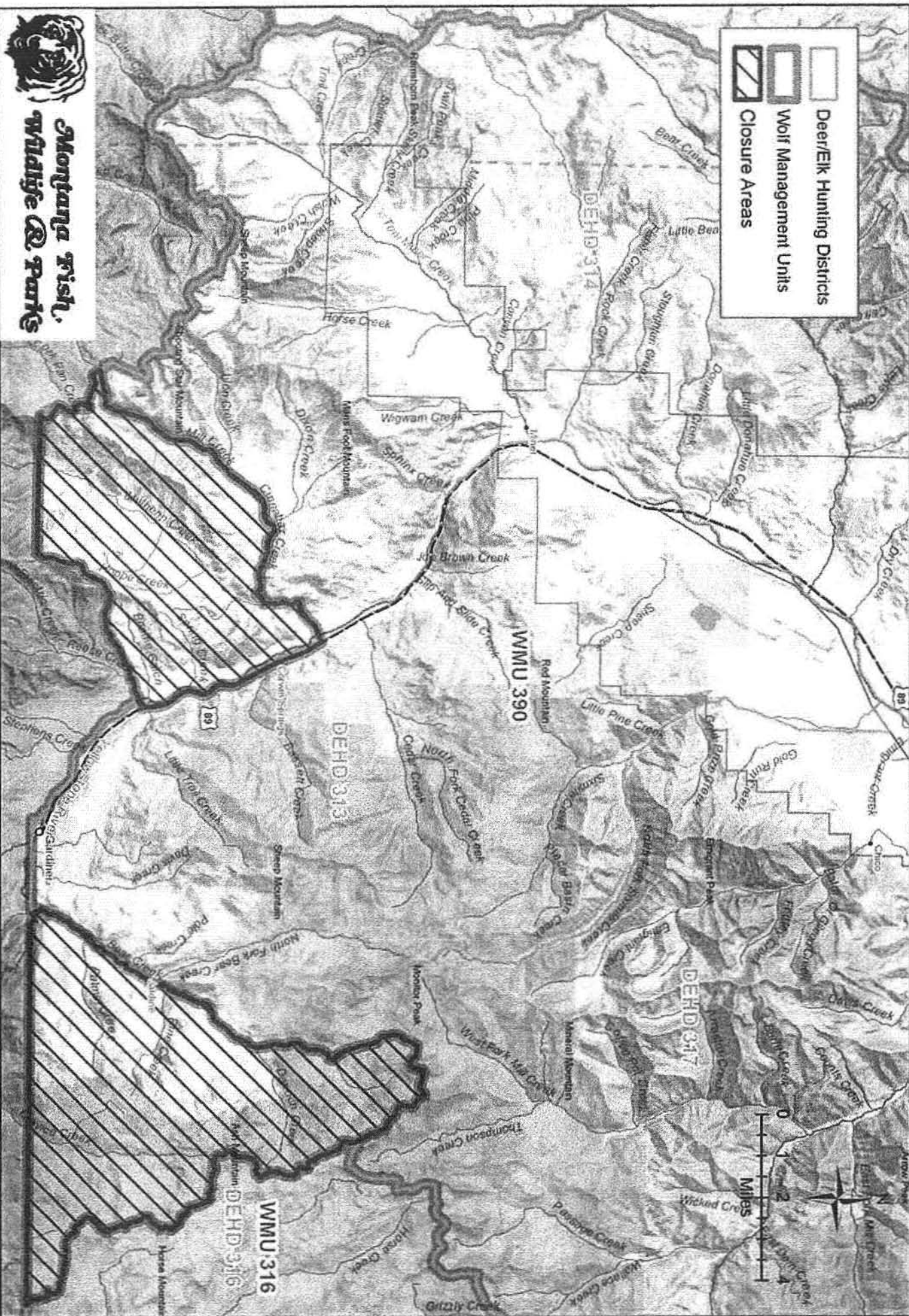
The FWP Commission finalized regulations for the Montana wolf hunting and trapping season in July 2012. The 2012 wolf hunting season opened with the archery season on Sept. 1 and will close on Feb. 28, 2013. The first Montana trapping season opens on Dec. 15 and closes on Feb. 28, 2013. The 2012 season framework includes a number of changes from 2011, largely intended to increase wolf harvest and decrease wolf abundance in Montana. In July, the commission directed FWP to provide a review of the wolf harvest after Nov. 25, the end of the regular deer and elk season. The review will include data on harvest numbers, geographic distribution of harvest, consideration of depredation removals, and overall wolf mortality relative to wolf population model projections. Much of the data will be presented to compare harvests during the 2011 and 2012 hunting seasons.

EXUBIS

4



Montana Fish,
Wildlife & Parks



EXHIBIT

5

TRANSCRIPT

FWP COMMISSION

12-10-12

1 CHAIRMAN REAM: We'll move from that into wolves.

2 STAFF: Okay. I'll just introduce it real quick. Again, Mr.
3 Chairman, Commissioners, in July of this past year when you
4 adopted the 2012-2013 wolf hunting regulations there is
5 direction for the Department to evaluate the harvest as of the
6 end of the general gun season and report to you by December 3rd
7 where we were at in case any tweaks needed to be made based on
8 the fact we're still learning about wolf hunting and
9 effectiveness of wolf hunters and our lifting of the quota, so
10 today's agenda item was an informational. George Pauley is
11 going to go into the details with you, but it was in response
12 to the direction in July to revisit in case you wanted to make
13 any tweak, so I'll turn it over to George.

14 CHAIRMAN REAM: Thank you.

15 COMMISSIONER: Mr. Chairman, before Mr. Pauley starts, this
16 is going to be an agenda item at our meeting on the 20th?
17 Correct?

18 CHAIRMAN REAM: No, I don't think so. Well, it depends on,
19 yeah, if the Commission wants to do something later rather than
20 today, but we have the authority to do a closure if we so
21 desire in any area, geographic area, at any time. So I don't
22 think it is on the agenda topic for the next, for the December
23 20th meeting.

24 COMMISSIONER: Well then to clarify, I believe, Mr.
25 Chairman, that we reserve the right, that we can do that.

1 CHAIRMAN REAM: Correct.

2 COMMISSIONER: At any time. That we don't have to set a
3 meeting and set a tentative and have that process, that we've
4 already addressed that process. Is that correct? Does that
5 square with Kim?

6 CHAIRMAN REAM: That's correct. And Becky is shaking her
7 head yes, our legal person here at the meeting. That's correct.

8 COMMISSIONER: Okay.

9 COMMISSIONER: But today's discussion is informational only
10 because that's the way we published it on the agenda.

11 CHAIRMAN REAM: It may or may not be. Like I said, we can
12 do a closure at any time if we so...

13 COMMISSIONER: Okay.

14 COMMISSIONER: Well, we identified it as informational, but
15 as you recall the true purpose here, and we thought we were
16 going to be together in Helena but we moved that meeting of the
17 13th to the 20th, but was to have a discussion before the season
18 started about any modifications that may, an update along with
19 is there reason for.

20 CHAIRMAN REAM: That's right. In fact we said way back in
21 July, I think, that we would revisit it at the beginning of
22 December and make any adjustments that we felt necessary at
23 that point in time. That was made clear then.

1 COMMISSIONER: You know, Mr. Chairman, I guess we could
2 just go ahead and go with the update and then that should
3 prompt some discussion from there I would suspect.

4 CHAIRMAN REAM: That's right. That's what I'm, yeah. That's
5 what I asked for. Okay, go ahead Mr. Pauley.

6 MR. PAULEY: Mr. Chairman, Commissioners, Assistant
7 Director Volesky, George Pauley with the Wildlife Bureau. I
8 sent you material summarizing harvest so thus far this year
9 comparing harvest to harvest levels in 2011 just some
10 informational maps displaying packs and harvests and so forth,
11 and maybe just to summarize all that. I looked at harvest
12 through the end of the general deer and elk season this year
13 compared to last year, and the harvest this year is 18 percent
14 lower than last year. I believe we harvested 81 wolves this
15 year by that time compared to 99 last year. No real indication
16 why that would be the case. We've sold essentially almost
17 exactly the same number of licenses this year compared to last
18 year. We might speculate that wolves are becoming a bit more
19 wary or maybe hunter effort is dropping off because of a,
20 losing the novelty of wolf season, but at any rate the harvest
21 rate season long has just been lagging behind the 2011 level.
22 There is really no indication if we look at that table with the
23 harvest among wolf management units. It's certainly, there is
24 some differences between this year and last year. Harvest
25 levels are up in some WMUs, down in others. No real alarming

1 indications that we might be eliminating wolves from a large
2 area of the landscape that, for example, might ultimately
3 threaten connectivity and genetic interchange or anything on
4 that order. Just really no indications, particularly with the
5 lower harvest levels we're seeing this year, no indications
6 that there is anything to be concerned about. We compared
7 harvest this year relative to the wolf population model
8 simulations we did this summer. Now in those simulations, as
9 you recall, depredation removals were fairly low during 2011
10 relative to 2010 and 2011 removed 64 wolves because, in
11 response to wildlife depredation complaints. In 2011, I
12 believe, we removed 141 or something on that order, so
13 questionable what assumption to put in there, so we assumed the
14 high depredation level of removal which is maybe a conservative
15 assumption, and actually this year up to that date, I believe,
16 we'd removed 101 wolves, so we're kind of intermediate between
17 2010 and 2011 levels, so assuming the higher level of
18 depredations kind of takes us down a conservative course. We
19 also assumed a 60 percent harvest rate in the model, and that
20 is the highest rate that we might anticipate seeing under that
21 season framework, so, and that would lead to a harvest of 364
22 wolves. And I gave you a table showing you the distribution of
23 harvest among the old recovery areas and the total of 364
24 wolves that would be harvested if we achieved a 60 percent
25 rate. And of course up through the end of deer and elk season

1 we were only at 81 wolves. At this rate of harvest just in
2 summary, even if we pick up quite a bit of trapping harvest it
3 is kind of hard to imagine any mechanism by which we'd reach
4 364 wolves harvested this year. And even if we achieve that
5 harvest, the model predicts we would still have a residual
6 population of 485 wolves. Right now we're at about 22 percent
7 of modeled harvest. If you'll refer back to that table I
8 presented, Abby Nelson, one of our wolf specialists tabled,
9 there's certainly been a lot of interest in wolves killed
10 around the Yellowstone National Park, and she created a table
11 summarizing what's happened there. The upper half of the table
12 displays Yellowstone National Park packs, the lower half
13 displays Montana packs. This was current as of the end of
14 hunting season. And the left side indicates how many wolves are
15 remaining. For example, in the Eight Mile Pack at that time,
16 two radio collars remaining, ten total wolves remaining. And
17 she gave me an update today, actually, and indicated one more
18 un-collared wolf was killed that was likely a member of the
19 Eight Mile Pack, so there would now be 9 remaining. The right
20 hand side of the table indicates, has a bunch of information on
21 wolves that were harvested both from Yellowstone and Montana
22 packs, indicating which ones were collared and which ones were
23 not collared. Maybe to summarize, FWP does not, we don't see
24 any indication of over-harvest or any concern related to
25 harvest. This is, the season is progressing much as we might

1 have anticipated, certainly even with respect to packs around
2 the Yellowstone National Park boundary. We recognize that a
3 loss of radio collars to park staff certainly has some impact
4 on Yellowstone National Park research objectives. However, we
5 also have elk management objectives we're trying to reach by a
6 number of mechanisms including allowing hunters to remove some
7 wolves, so we don't see any need for any changes at this time.
8 All I have.

9 CHAIRMAN REAM: I'm going to make a motion but before I do
10 I want to ask a few questions. And I'm trying to remember, I
11 didn't look this up, but in 2011 we had a quota in that 316 as
12 I recall.

13 MR. PAULEY: Correct.

14 CHAIRMAN REAM: Was it a quota of two or three, something
15 like that.

16 LEGAL COUNSEL: It was three.

17 MR. PAULEY: Three.

18 CHAIRMAN REAM: Okay. The map you have here showing the
19 harvest locations, I guess, shows, well, you indicated two
20 unknowns in that area in the Gardner Basin up to Mill Creek and
21 Cinnabar Creek, or un-collared I should say, not unknown. But
22 it looks like there may be more that that there. And then in
23 316 we had a quota of two and so far one has been taken,
24 correct?

25

1 MR. PAULEY: The current quota I believe is three, but let
2 me look that up.

3 CHAIRMAN REAM: No, it's two and one has been taken.

4 MR. PAULEY: Actually there's a mistake in the regulations
5 brochure. I believe that we, I think it's three right now.

6 CHAIRMAN REAM: Oh.

7 MR. PAULEY: I'm pretty certain. And there was a mistake in
8 the brochure. It was supposed to be two in 110 and three in
9 316, so we still have not reached the quota. We've only taken
10 two.

11 MR. REAM: Okay, well that map of harvest does show a
12 substantial number taken just north of the park. You know we
13 did set a precedent up in Glacier in 101 or 110 and then 313
14 this year and, I'm sorry, 316, and we have last year had 316 as
15 well. You know, I wanted to make it clear when a park pack
16 leaves the park and goes into Montana or Idaho or Wyoming, for
17 example, and stays out of the park, it's a Montana pack. And
18 that's the case west of Yellowstone National Park. Conversely,
19 when a Montana Pack goes into the park, it's a park pack. And
20 that's exactly what happened with Eight Mile Pack. Last year it
21 was a Montana pack and this year it denned in the park. We have
22 had literally thousands of comments about the park wolves. Some
23 people focus on individual wolves, I tend to focus on the
24 population. We do have a stable population there. The
25 information that the researchers there have collected has been

1 invaluable, I think, for wolf management. They've invested a
2 lot in putting out those collars. One of the problems as I see
3 it this year, and I think it happened a little bit last year,
4 is that by hunting just on the borders of the park there are
5 gut piles that attract predators, not just wolves but grizzly
6 bears as well, and that's true in the Gardner Basin. So I want
7 to make a motion that we have at least five killed in these two
8 areas, well let me back up. 390 is a huge area, Wolf Management
9 Unit. Within that we have hunting district 316 and within that
10 I would like to propose, and I'll make the motion, that the
11 area from Mill Creek and Cinnabar Creek east to Highway 89 be
12 closed. We've had at least two wolves killed there and also
13 that the area east of Bear Creek to Wolf Management Unit 316 be
14 closed. So those are two very small areas within Hunting
15 District 316, which is even smaller in relation to Wolf
16 Management Unit 390 as a whole. But I think this will take care
17 of further park wolves venturing out into Montana and the five
18 exceeds the quota that we had a year ago for all of 316. So I
19 think it's reasonable, it's kind of a compromise approach, and
20 I think it is warranted at this point in time. So...

21 COMMISSIONER: I'll second your motion.

22 CHAIRMAN REAM: All right. It was a motion, I guess. So the
23 motion has been made and seconded. Are there any comments? I'll
24 open it to public comment in a minute, but any other
25 Commissioners?

1 COMMISSIONER: Mr. Chairman, I agree with your assessment
2 here, and once again as always with wolves, this is a matter of
3 anthropology not biology of dealing with what is clearly a
4 clash of social cultures at that park boundary, and I think
5 your motion extends some new respect and regard for that
6 culture that dominates on the other side of that park boundary
7 without giving away the store on the Montana side. So that's
8 the reason why I was so quick to second it. I want to say that
9 I really appreciate what really was a new effort from one of
10 the non-hunting, pro-wolf groups, Wolves of the Rockies, to
11 find an accord they can live with with the hunting culture,
12 with the conservation culture. That deserves some attention
13 from us as different from trying to parse these things out in a
14 federal district court some place. Just one more thing though,
15 when we finish this discussion we really should talk about
16 process here because we informed the public this was an
17 informational briefing, and while we may have the authority to
18 do this it is not good public relations. But we'll talk about
19 that later.

20 CHAIRMAN REAM: We did inform the public at the July
21 meeting that we would be reassessing this in, at our...

22 COMMISSIONER: It was July, and the agenda says
23 information.

24 CHAIRMAN REAM: Well, it was but we do have the authority
25 to do that. In fact, the Department can do closures.

1 COMMISSIONERS: Just exactly how lawyers get such a bad
2 reputation.

3 CHAIRMAN REAM: Ooohh.

4 COMMISSIONER: Well, speaking as a lawyer, we have not only
5 followed the appropriate process but we've stated this, and I
6 fully understood what the purpose of this reset, re-evaluation
7 in December was, and then it came out in the paper earlier here
8 last week that a discussion of this nature would be on the
9 table because that's what was anticipated. So I think that
10 while I understand what you're saying, Ron, I just think that
11 we have followed process effectively, and we have not hid the
12 ball in any fashion indicating that this is something that may
13 be on the table later. I look at this issue from a standpoint
14 of when something is going to interfere with our ability to
15 maintain management over the wolf, that is when the Commission
16 must involve itself, and ideally at some point this wolf season
17 and trapping season will move along as easily as our other big
18 game seasons, but it's going to take some time. And the loss of
19 this many collared wolves in our hunting season does not bode
20 well for what could take place in the trapping season because
21 obviously the trap is completely indiscriminate on whether it
22 catches a collared wolf or not, and I don't know if without the
23 aid of tranquilizers many people should be charged with the
24 task of releasing a collared wolf. And it does impact our
25 management and our understanding of this animal and the

1 movement of those packs. It also limits our ability with
2 depredation response. We need a collar on a wolf associated
3 with the pack to find that pack for legal removal. So it is in
4 everybody's interest on both sides of this issue to make sure
5 we keep collared wolves in appropriate abundance across the
6 landscape. It's not easy to get collars on wolves and it's not
7 inexpensive. I don't know why so many collard wolves have been
8 harvested. I don't want to speculate on that, but it's a fact.
9 And so I from my standpoint I think that this is a prudent
10 course. It is a very modest adjustment. We're still allowing
11 very little harvest across the state, and we just need those
12 collared wolves because to also to determine their interaction
13 and predation on our elk herd. And that has to take priority.
14 So I appreciate your leadership on this, Chairman Ream, in
15 making the motion and I'm certainly supportive.

16 CHAIRMAN REAM: Okay, with that I think we'll open it up
17 for public comment. Any public comment?

18 COMMISSIONER: This is Dan. I just had a quick question.
19 Would you repeat the motion for me because I'm having to just
20 look at the map and try and make sure I understand it
21 correctly.

22 CHAIRMAN REAM: Okay, on the east if you go up Bear Creek
23 all the way to the boundary of Hunting District 317, follow
24 that south, then all the way to the park boundary. In other
25 words it's adjacent to Wolf Management Unit 316, that area

1 immediately to the west of 316. And then further west, I went
2 down from the park boundary down Mill Creek and Cinnabar Creek
3 to Highway 89 and then down Highway 89 to the park boundary.

4 COMMISSIONER: For a small portion of, I guess that's 313
5 on the west side and a small portion of 313 on the east side of
6 the river.

7 CHAIRMAN REAM: Correct. Leaving that middle part still
8 open. And that's where the two, excuse me?

9 COMMISSIONER: The buffer that is being created, what
10 exactly would the quota be in that particular buffer?

11 CHAIRMAN REAM: Say that again? I didn't...

12 STAFF: What's the closure? Is the closure exactly in that
13 particular?

14 CHAIRMAN REAM: The closure would be no further taking of
15 wolves by the hunting season or the trapping season in those
16 two small areas. That's where the problems have been, and like
17 I said I originally was looking at the area in between, Dan,
18 and the regional staff felt it would be better to keep that
19 open. There are no resident packs there as far as they know, so
20 it really has no effect one way or the other, but we would
21 leave that, leave that open. The area west of Bear Creek, in
22 other words all the way over to Highway 89, would still be part
23 of 316 that would be open. That make sense? Do you have a map
24 there, Dan, or? Dan?

1 COMMISSIONER: I understand what you're talking about.
2 Thank you.

3 CHAIRMAN REAM: Okay. All right. With that I'll open it to
4 public comment.

5 REGION 2: Mr. Chairman?

6 CHAIRMAN REAM: Yes.

7 REGION 2: This is Region 2. We'll have some people making
8 comment here.

9 CHAIRMAN REAM: Okay. Any other regions?

10 REGION 3: Region 3 will have people making comment.

11 CHAIRMAN REAM: Okay.

12 STAFF: They either need to get off the video or get on the
13 video and get off the bridge. That's why you've got some
14 feedback. They're on both.

15 CHAIRMAN REAM: So...

16 STAFF: They had the mic turned on and the phone turned on.

17 CHAIRMAN REAM: Okay, in Region 2 and 3 you can't have your
18 mic turned on with the phone bridge. We'll just use the video
19 conferencing. Is that correct?

20 STAFF: That would be preferable.

21 CHAIRMAN REAM: That would be preferable because we're
22 getting feedback here.

23 REGION 2: Mr. Chairman, this is Region 2 again. They have
24 several meetings going on here without the, we have no video
25 facilities here in Region 2 using this conference call.

1 CHAIRMAN REAM: Okay, then just use the phone there in
2 Region 2. That will be fine.

3 REGION 2: Thank you.

4 CHAIRMAN REAM: But I'm going to start here in Helena, so
5 we'll go ahead.

6 COMMENT: Commissioners, Chairman Ream and Commissioners...

7 CHAIRMAN REAM: Excuse me. Again, we will limit comments to
8 two minutes.

9 MS. POPPER: Deputy Director Volesky, I'm Llona Popper of
10 Gardner, Montana. I'm speaking for Bear Creek Counsel, a
11 community-based conservation organization in Gardner, Montana.
12 Our membership includes hunting and wildlife outfitters,
13 hunters, ranchers, business people and conservationists, and
14 we're a part of a large group of stakeholders in Western
15 Montana who rely on wildlife tourism economically and as a way
16 of life. We ask the Commissioners to vote with Chairman Ream's
17 proposal, which would close the area that was designated as
18 313, 316 in 2011, and at that time it had a quota of three
19 wolves. We supported that in June, but Fish, Wildlife and Parks
20 turned us down. The 2012 hunt has been a disaster for Southwest
21 Montana's tourism industry, for the science of wolves and for
22 our wolf-reliant ecosystem. As of last week eight radio-
23 collared Yellowstone National Park wolves and four un-collared
24 wolves have been killed at or near the boundaries of
25 Yellowstone. Bear Creek Council wants to see those protected in

1 Yellowstone and in the Gallatin National Forest Absaroka
2 Beartooth Wilderness Areas. Yellowstone is the number one place
3 in the world to watch wolves and millions of tourists are
4 appalled to find wolves they've watched have killed in the
5 hunt. This hurts Montana. Bear Creek Council also values
6 Yellowstone National Park Wolf Project Research and predator
7 prey relationships. We're surprised that Montana does not see
8 the value of nearly 20 years of predator prey research on what
9 was one of the largest unexploited populations of wolves in the
10 world. Think about 2013 Fish, Wildlife and Parks. What's your
11 goal here? We thought the idea was to lower wolf numbers in
12 areas that suffer from high predation or high elk losses. The
13 way this hunt is going it looks like Fish, Wildlife and Parks
14 is trying to and succeeding in lowering the number of wolves in
15 Yellowstone, not on ranch lands. These wolves do not depredate
16 and they're not killing all the elk. Where is the science?

17 STAFF: Would you hold on just one second?

18 MS. POPPER: I will.

19 STAFF: They have to use one or the other.

20 CHAIRMAN REAM: Region 2, you have to use one or the other.
21 We can't have, we're getting feedback here and it's interfering
22 with our testimony here in Helena, so either use the phone or
23 the video conferencing. We can't use both.

24 REGION 2: Okay.

25 CHAIRMAN REAM: Okay? Sorry.

1 MS. POPPER: That's all right. I just want to repeat, the
2 way the hunt is going it looks like Fish, Wildlife and Parks
3 has been trying to lower the number of wolves in Yellowstone,
4 not on ranch lands. These wolves don't depredate; they're not
5 killing all the elk. Where is the science? I challenge you to
6 produce science that shows that wolves are the main driver of
7 elk loss. Without predators, ungulates will eat through their
8 food. On the other hand, predators like cougars, wolves, bears
9 are self-regulating. When there's no food, predators stop
10 having babies. Fish, Wildlife and Parks, I looked at your
11 research on wolf tolerance in Montana. Unfortunately, you've
12 excluded two major stakeholders--wolf tourism businesses, which
13 bring in more money than hunting or ranching, and
14 conservationists. Fish, Wildlife and Parks, are you managing
15 wildlife or are you managing hunting? We want you to show us
16 Montanans who depend on wolf and wildlife tourism who support
17 Yellowstone science and who believe in conservation that you
18 see us and hear us as stakeholders. And we've been asking for
19 this since 2009. Fish, Wildlife and Parks, please show us
20 you're listening. Please vote yes on this closure and please
21 consider what happened in 2009 and in 2012 wolf hunts when you
22 make your decisions for 2013. Thank you very much for this
23 opportunity.

24 CHAIRMAN REAM: Thank you. Next?

1 MR. COOK: Assistant Director Volesky, Chairman Ream,
2 Commissioners, my name is Mark Cook, and I'm with Wolves of the
3 Rockies. My distinguished colleague has a lengthy statement
4 that she would like to appear and tell you folks. I would like
5 to relinquish my remaining time to her to allow her to do this
6 with your permission.

7 CHAIRMAN REAM: Yeah, I would still like to keep it short.

8 MS. BEAN: I'll talk fast.

9 CHAIRMAN REAM: All right.

10 MS. BEAN: Good afternoon Commissioners, Chairman Ream,
11 Deputy Director Volesky. My name is Kim Bean and I'm here on
12 behalf of Wolves of the Rockies. When we learned of the 7
13 deaths of Yellowstone National Park collared wolves back at the
14 beginning of November, and we were outraged by these particular
15 wolves being killed. Yellowstone National Park wolves are
16 supposed to be the most protected wolves anywhere. And yet out
17 of the nine wolf packs in the park, six of those have lost one
18 or more wolves to hunters this season. The Park Service and
19 numerous wildlife advocates have asked for the protection of
20 these wolves, not simply for those of us throughout the world
21 that enjoy watching them and following them, but for the
22 research that the Yellowstone National Park Wolf Project
23 completes and distributes yearly. The data that the Wolf
24 Project biologists gather is pertinent to our understanding of
25 the predator prey dynamic and essential to understanding wolf

1 behavior. This data provides research free of charge to the
2 agencies everywhere including Montana Fish, Wildlife and Parks.
3 So in essence, the loss of these research animals is affecting
4 you as well. According to the most recent available data,
5 Yellowstone National Park has less than 82 wolves remaining in
6 the park. The collared population is down to only 18 collared
7 wolves in the entire 2.2 million acres. Only six of those
8 collared wolves are left in the northern range. One of those
9 harvested was wolf number 826F was the only collared wolf in
10 the newly formed Junction Butte Pack, which has halted all
11 research for biologist concerning these wolves. A total of 5
12 wolf project collared wolves that reside inside the park
13 boundaries have been killed, all within the northern range.
14 That is 22 percent of park's data, biologists' hard work and
15 stakeholders' money due to ignoring the need for protecting
16 these wolves. To look at this in another way, between 50 and 70
17 percent of the Yellowstone wolves killed this season were
18 collared research wolves. You cannot deny this does more than
19 hamper the research of the wolf project. The North American
20 model of wildlife conservation is the cornerstone of ethical
21 hunting and that for which Montana Fish Wildlife and Parks
22 stands behind. Fair chase, as defined by the Boone and Crockett
23 Club, which is the ethical, sportsmanlike and lawful pursuit
24 and taking of any free-ranging wild native North American big
25 game animal in a manner that does not give the hunter an

1 improper advantage over such animals. Let me just point out
2 that Yellowstone National Park wolves are incredibly tolerant
3 of people. They have to be to survive in the most visited of
4 national parks. It is too energy expensive for these wolves to
5 try and dodge the people they encounter within these invisible
6 boundaries. A park wolf comes within 50 to 100 yards of people
7 in the park. Wolves, Yellowstone wolves, feel safety within 300
8 yards of people and yet when they naively leave the park they
9 are easily picked off within these same distances. This,
10 gentlemen, is not considered fair chase. You are unfairly
11 harvesting the most visible, human-tolerant wolves in the
12 world. Pup distress calls, howls, gut piles, baiting, trapping,
13 this is not fair chase and is in direct violation of the North
14 American model of wildlife conservation. We got the news last
15 week that the most famous, most researched and most watched
16 wolf, number 832, better known as the 06 female of the Lamar
17 Canyon Pack was killed in Wyoming. It was by a flip of the coin
18 that she was not killed here in Montana. I do not want to
19 sensationalize the issue of one particular wolf. There were
20 great wolves before her, and there will be great wolves that
21 follow her. However, in the best available data we know that
22 wolf viewers from around the world bring in \$35 million
23 annually to watch and learn about YNP wolves, and the 06 female
24 was part of that economic figure. As a matter of fact Wolves of
25 the Rockies was contacted last night for an interview with the

1 British Broadcasting Corporation in the UK concerning the death
2 of 06 and the hunting of Yellowstone wolves. Yes, Europe is
3 calling and they're concerned about what is happening in
4 Yellowstone. We must keep in mind that all the wolves, collared
5 and un-collared in YNP play an important role that provide an
6 economic boost to the communities surrounding YNP, and they
7 provide invaluable research data we all utilize.

8 CHAIRMAN REAM: Are you about?

9 MS. DEAN: Almost. I'm on the...

10 CHAIRMAN REAM: Wrapped up?

11 MS. DEAN: Yes sir. Wolves of the Rockies does not have
12 their head in the sand. We recognize and always have that
13 hunting will be a part of managing our wolf population, but we
14 stand firm in supporting science over special interests in
15 doing so. With that said, Wolves of the Rockies is proposing to
16 Montana Fish, Wildlife and Parks and the Commission today, a
17 subunit with WMU 390 that we are calling WMU 390a with a quota
18 of two wolves. This area outlined in red on the map, I hope all
19 gentlemen have that. Within this subunit, we are asking for a
20 closure which is outlined in green. This is not unprecedented
21 to ask for a closure in the Deckard Flats area as this has been
22 closed to elk hunting in the past due to a firing line on elk
23 migrating out of the park during hunting season. At the time,
24 Wolves of the Rockies is asking that you close down WMU 316 for
25 further harvesting as only one more wolf is needed to fill this

1 quota, and I don't believe that is worth the collateral damage
2 that would be caused by trapping. With the acceptance of this
3 proposal we are asking that WMU 390a be closed as well as the
4 green closure zone that has already taken three of our collared
5 wolves. We hope that you, our trusted Montana Fish, Wildlife
6 and Parks Commissioners will set a precedent for Wyoming and
7 Idaho, the other two states surrounding YNP, by accepting this
8 proposal to show good faith to the YNP Wolf Project and their
9 stakeholders as well as wolf viewers from around the world that
10 boost the economy of our state and provide a living for
11 communities around YNP. Without both of these we are sure to
12 lose not only an important research but vital resources.
13 Gentlemen, thank you so much.

14 CHAIRMAN REAM: Thank you. Further comment. Anyone has
15 written comment you can turn it in as well.

16 MR. MATTHEWS : Commissioner Ream, Vice Chair Volesky and
17 Commissioners around the state, I'm Jonathan Matthews, I live
18 here in Helena, and I'm representing the 4,000 Montanans who
19 are a member of the Montana Chapter of the Sierra Club, and as
20 you know we are opposed to trapping. The trapping season is
21 about to begin and we would like to, first of all, Commissioner
22 Ream, thank you so much for proposing these closures of these
23 areas next to the park. Of course, we don't think that there
24 should be trapping in general because it is unethical, it goes
25 against the Boone and Crockett fair chase principles. We're

1 particularly opposed to trapping in the wolf management units
2 that about the park, and are glad that you have suggested some
3 closure in these areas. The taking of these collared wolves as
4 you know is a great blow for research, and it's also generating
5 an extraordinary level of publicity. We heard about the BBC
6 being interested, and I have just to share in case you haven't
7 seen it a copy of an article that was in the New York Times on
8 December 9th about this famous and beloved wolf being killed. So
9 this is really making, it's a huge story all over the world
10 right now it appears so I know we need to do what's right for
11 Montana, but I think it is appropriate to realize that the rest
12 of the world cares tremendously and these wolves are the
13 nations wolves and really the world's wolves, so I don't think
14 that's inappropriate. So thank you for proposing this buffer
15 zone. I would like to also consider about trapping. Obviously
16 traps catch collared wolves as easily as non-collared wolves.
17 It is heartbreaking for people around the country to be hearing
18 about Yellowstone's wolves being killed, and I hope you'll do
19 whatever you can today to make sure that these rather
20 habituated to people wolves are protected from further hunting
21 and trapping. I'll leave written comments for you. Thank you.

22 CHAIRMAN REAM: Thank you. Any further comments? Any
23 further comments? Let's go to Region 2 then.

24 MR. KUBISTA: Mr. Chairman, this is Keith Kubista,
25 representing Montana Sportsmen for Fish and Wildlife, and I

1 just wanted to take a couple seconds and address the public
2 process that Commissioner Moody spoke about and Commissioner
3 Colton as well, and I believe your legal staff has said it is
4 fully proper given the notification earlier, but it's a darned
5 hard thing to follow for the general public. And I think if you
6 were to look back at the recent August protocol suggested
7 change on the notice for USDA Wildlife Services to have a
8 different set of circumstances to deal with, and a notice went
9 out to the County Commissioners dealing with that change under
10 MCA 87-12-17, there is great need for improvement. To the
11 specifics of setting a buffer or a reduced harvest quota within
12 the borders of Yellowstone Park, we knew Yellowstone Park
13 existed when the wolf management plan was done. We knew
14 Yellowstone Park existed when the wolf season was set up. We
15 know wolves range great distances. We know a lot about the
16 wolves. What we don't know is the outcome of the season
17 structure that you set up early in July, and we're barely
18 halfway through with 18 percent lower harvest totals, with
19 numerous objectives yet to be met with lowering wolf
20 populations, and I think the Department's no need for change
21 statement is a vital consideration. Where was the protections
22 for the greater Yellowstone dwindling elk herd? There seems to
23 me more emotion concerned with wolves that there is proper
24 science. I don't see the proper science. I don't see the
25 biology for this. I see an unnecessary, precedent-setting

1 situation that could evolve over time into our inability to
2 manage wildlife within Montana, and I would urge you not to
3 adopt something of this nature. Thank you.

4 CHAIRMAN REAM: Further comment.

5 MR. PANUSZ: Chairman Ream, respected Commissioners, ladies
6 and gentlemen, thank you for the opportunity to speak. My name
7 is Filip Panusz, I am the Executive Director of Footloose
8 Montana here in Missoula, and I speak on behalf of our
9 organization and the thousands of our statewide supporters. I
10 also speak as a student of wildlife biology. I would just like
11 to draw your attention as it has already been drawn by
12 Commissioner Colton's comments and Kim from Wolves of the
13 Rockies to the tradeoff between on the one hand the public
14 image of Montana's wildlife management policies, the enormous
15 economic boon of wolves to tourism in the Yellowstone region
16 and the proven ecological benefits of wolves to local riparian
17 ecosystems especially that had over the years been overgroused
18 by large populations of ungulates and on the other hand the
19 minimal value of the trapping quota opportunities in this
20 region especially given the numbers already taken in illegal
21 hunts in bordering states, especially the numbers of collared
22 individuals. Footloose Montana is strongly urging the
23 Commissioners to reconsider allowing wolf trapping in the areas
24 adjacent to Yellowstone National Park. If and only if it is
25 deemed necessary to reduce the wolf population further, and we

1 understand that sometimes that may be necessary, we propose
2 that a hunt would be sufficient to achieve these management
3 goals while minimizing the huge public relations cost to
4 Montana. Trapping being the total antithesis of fair chase
5 welcomes even more controversy into a situation where we can
6 least afford it. It also does not discriminate between collared
7 and uncollared animals as Commissioner Colton earlier stated.
8 Thank you so much for the opportunity to comment.

9 CHAIRMAN REAM: Any further public comment?

10 PUBLIC: This is (inaudible), Missoula, Montana, landowner
11 in this Region 2. I just wanted to make it pretty short here.
12 You know bison and elk are managed when they leave the park
13 boundary. Common sense says wolves should be managed at the
14 same boundaries. This is an historic boundary that should be
15 adhered to. Any private ground in or near you're going to if
16 you remove the harvest in these special areas you're sending
17 these wolves on to other landowners to have to deal with them
18 in the adjacent areas. You need to get, we're trying to get the
19 quota in those specific areas, so we need to go to that. Wolves
20 can be removed from traps. It's easily done with a catch stick
21 and should not be a problem. I myself realize the importance of
22 collared wolves and in my trapping activities so that we can
23 keep track of the packs. I would probably, as long as the wolf
24 was in good shape, have him removed from the trap so that we
25 can keep track of them. Thank you.

1 CHAIRMAN REAM: Thank you. I did want to point out to you
2 and Mr. Kubista too that in the two very small areas that I
3 identified there are no known Montana resident wolf packs, so I
4 don't think this is going to have an effect one way or the
5 other. There are no packs in those two very small areas,
6 Montana packs. Well, that's it. Further public comment.

7 MS. NARCISCO: My name is Claudia Narcisco. I'm a citizen
8 and a scientist, speaking for myself. I'm opposed to trapping
9 of wolves due to the basic cruel and inhumane nature of...

10 CHAIRMAN REAM: The issue before us is closure on this
11 area, and I don't want to get off onto whether or not people
12 support or oppose trapping.

13 MS. NARCISCO: All right, well, okay.

14 CHAIRMAN REAM: I mean the closure will close it to hunting
15 and trapping for the remainder of this season this year.

16 MS. NARCISCO: Okay, then I support the closure.

17 CHAIRMAN REAM: All right. Any further?

18 MS. NARCISCO: Yes. Can you please let me finish speaking?

19 CHAIRMAN REAM: Oh, sorry. Sorry.

20 MS. NARCISCO: Thank you. I sat here for the last two-and-
21 a-half hours so, you know, I would like to have my few minutes.

22 CHAIRMAN REAM: Go right ahead.

23 MS. NARCISCO: Okay. I also saw the article in the New York
24 Times, and I am concerned about public perception across the
25 country and potential for some type of a backlash on Montana's

1 tourism. The one wolf that was cited in that article happens to
2 be in the, this current issue of *American Science*, a good part
3 of the article and a photograph of that wolf. And the
4 photographer is actually from the LA area. So as was mentioned
5 early we do not know how far and wide this perception is being
6 broadcast. That can have some ramifications to the Montana
7 economy. Not only for the waste of taxpayer dollars for all of
8 the wolves that have been collared that have been taken this
9 year, and from a scientific perspective, I'm not certain that
10 that taking of the high percentage of collared wolves as
11 compared to un-collared wolves is statistically valid to be a
12 random rather than a targeted case. So I would really like that
13 to be looked into. Also, I think that it's like, at least with
14 the viewing of wolves is estimated at least a \$35 million
15 income to the State of Montana. Recently in the past few years
16 the economy has been down, but I think small businesses have
17 been seeing a pickup this past year. Now how much of this is
18 related to wolf or wildlife viewing I can't say for sure. Also,
19 I'm not sure that science has really been fully considered.
20 There is recent incomplete studies by, even from the Fish,
21 Wildlife and Parks, that verify, that fail to verify that
22 wolves are the primary predators on livestock or the wildlife,
23 so I think that some of this, this encourages prudence. This
24 lack of scientific validity encourages prudence on the part of
25 the Commission at the very least. Trapping, and I believe that

1 this proposal represents a radical departure from the grounded
2 incremental approach Montana has taken so far, and I think that
3 other alternatives might, to be more fully considered. And
4 that's all I really have to say. Thank you.

5 CHAIRMAN REAM: Thank you. I would point out that if FWP
6 were to receive 10 percent of that \$35 million for wolf
7 research and management it would go a long ways towards helping
8 in this situation. Any further public comment?

9 REGION 3: Chairman Ream, we have I think probably ten
10 commenters in Region 3.

11 CHAIRMAN REAM: Okay. Go ahead. We'll limit it to two
12 minutes each. Same rules apply.

13 MR. DEANE: Commissioners, Director, my name is Roland
14 Deane. I'm from Three Forks. I represent the Montana Houndsmen
15 Association. The guides down in the Paradise, they kind of got
16 wind of maybe closing that down this week, and the Houndsmen
17 would be opposed to that. There's too many wolves now, and
18 there's too many going around. And maybe they could pass some
19 of them collars back into Montana so they could help us clean
20 up some more wolves. Thank you.

21 VOICE: Hello? Region 3 speaking?

22 CHAIRMAN REAM: Yes, we're listening to Region 3.

23 MS. JONES: Hello Commissioners, my name is Shawn Jones. I
24 am from the United Kingdom. I'm currently over here for two
25 months. I've been coming twice a year for many years

1 predominantly to watch wolves. I'm one of the people who come
2 out of season. I (inaudible), I pay a lot of money. I'm one of
3 those tourists that contributes a share of that \$35 million.
4 With what's been happening recently with the wolves of
5 Yellowstone, I think it is safe to say that the people I know
6 in Europe in the UK as well as in other states around the
7 United States are talking about no longer returning to this
8 area because they are appalled and disgusted by what has been
9 happening and what has been going on with the shooting of
10 collared wolves, which appear to us to be targeted outside the
11 park area. And I would heartily endorse the closures of not
12 only the areas that you're discussing, 316, but also the no
13 quota area and why there is a no quota area adjacent to a
14 national park is beyond my understanding. However, I would
15 heartily endorse the closures of those areas as would every
16 other wolf watcher and majority of wildlife watchers that
17 contribute millions and millions of dollars to your state, to
18 your economics, every single year. That money will go if things
19 do not change. We'll take it, we'll spend it somewhere else. I
20 come here for four months of the year; that will stop too.

21 CHAIRMAN REAM: Thank you. Again, I remind people keep it
22 to two minutes.

23 MR. MCGLAUGHLIN: I'm Doug McGlaughlin, Manager...

24 CHAIRMAN REAM: Hang on a second. Can you hear me in Region

25 3?

1 MR. MCGLAUGHLIN: Yes.

2 CHAIRMAN REAM: Okay. Okay. We're just, you're still on
3 both the phone and the video conferencing, so we need to get
4 off one or the other.

5 REGION 3: Chairman Ream, I'm sorry, but we are not
6 connected to the phone. We're just on the video conference.
7 Would you like us to get off the video conference and call in
8 instead?

9 CHAIRMAN REAM: No, I think we're okay now.

10 STAFF: Is your IT person there?

11 CHAIRMAN REAM: Is your IT person there?

12 REGION 3: No, she's not. Do you want us to get Sunny?

13 STAFF: Try adjusting the television volume separately. I
14 saw some people going up there. I think that's why you get
15 feedback.

16 REGION 3: Chuck, I'm sorry, I couldn't hear you.

17 STAFF: If you could adjust your TV volume manually.

18 REGION 3: Down or up?

19 STAFF: I would try down. No, on the side of the
20 television, not with the remote.

21 REGION 3: Right. How is that?

22 STAFF: No more.

23 REGION 3: Okay, how's that?

24 STAFF: Can you hear us? Turn your volume up?

25 REGION 3: I can hear you. Can you hear us?

1 CHAIRMAN REAM: Yes, we can hear you.

2 REGION 3: How's the feedback?

3 CHAIRMAN REAM: It's better now, so let's go ahead and try
4 it.

5 MR. MCLAUGHLIN: I'm Doug McLaughlin, manager of Silver
6 Gate Lodging, and I can speak to you from that \$35 million. We
7 have a very small hospitality center, but yet we pay \$46,000,
8 that's what we paid last year in lodging tax, so if you think
9 of all the places around Yellowstone that are involved in
10 paying that, you'll come up with your thirty-five and a half
11 million dollars very quickly. I can also speak on the world
12 opinion of what's happened here in Montana. I supplied the
13 photo of 06 and the photo of 754 to Nate Schweiber who wrote
14 the New York Times article. I was told that that article
15 appeared in 70 newspapers throughout the world yesterday, and
16 the feedback has been horrendous. It moved up to the number
17 four story on the New York Times yesterday and thousands and
18 thousands of comments made on it. It's just horrible what's
19 going on here, the killing of these wolves outside the park,
20 and I really hope with all my heart that you do support the
21 closure of those two districts, and in the future...

22 CHAIRMAN REAM: Thank you. Thank you very much for your
23 comments. Your time is up.

24 MR. MCLAUGHLIN: Thank you.
25

1 CHAIRMAN REAM: Further comments, and again, I would ask
2 people not to repeat previous testimony. We've heard the \$35
3 million over and over.

4 MR. SINAY: Hello Commissioners, thank you very much for
5 this opportunity, my name is Ken Sinay, I happen to be a member
6 of the Region 3 Citizens Advisory Council. I'm also Director of
7 Yellowstone Safari Company, a wildlife touring company with
8 over twenty years of experience both in Yellowstone as well as
9 Montana. We've been doing wolf tourists since before, in a
10 sense, the wolves were even released in 1995. I also work as a
11 seasonal hunting guide for over twenty years, and I represent
12 and support ethical outfitting. Finally, I represent national,
13 international non-hunting visitors. The people we serve, the
14 wildlife resources Montana and America and the people who have
15 contacted us due to these recent wolf kills. We are on the
16 national and international stage. We too have heard from BBC,
17 New York Times, former clients, people who are simply
18 interested. We've also been threatened with boycotts. Properly
19 managed, our wildlife resources promote economic and
20 environmental stability. Please consider all the values and
21 user groups. These values include economic values, of course,
22 to the hunting and non-hunting outfitters but also peripheral
23 businesses such as Doug just mentioned in relation to his
24 Silver Gate Cabins operations, also hotels, vehicle rentals,
25 airlines, restaurants and such. Environmental values,

1 ecological management, does promote stability of the natural
2 landscape, and I doubt we all wish to return to the days of
3 20,000 elk on Yellowstone's northern range. I do want to
4 emphasize that wildlife tourism has grown steadily since we've
5 started in the business. We've been doing it a long time. We
6 know the numbers of our competitors. The \$35 million, sorry to
7 bring it up again, it is a very old number. Our business has
8 been growing steadily since the first statistics and since
9 wolves were released in Yellowstone, and wolves have actually
10 gained greater prominence during that 20 years that I've been
11 doing this. This is actually our 22nd year. I also want to
12 emphasize the research and education aspects of wolf research
13 in Yellowstone and around Yellowstone. These projects help us
14 to be better managers, but they also help us develop human
15 commitment to the resource. And finally, experiential. This is
16 the majority of the people. The global public is looking for
17 ways to experience, and I would agree, to contribute to our
18 shared wildlife research. Finally, I just want to emphasize,
19 thank you very much. I do encourage, I do want to support the
20 closure. I hope you do as well. I would mention too that
21 management must become even more dynamic and complex. We're
22 dealing with a very changeable resource here. We're dealing
23 with changeable media and public representation. We should be
24 managing not by culling numbers, but by more specific goals and
25 consideration. I do believe trapping and hunting can be used to

1 achieve more specific goals, but I also believe we should be
2 managing for greater ecological integrity. And finally, I'd
3 like to emphasize that education and ethics should be given
4 greater weight in the future. Public perceptions of
5 disrespectful management and disrespectful wolf hunting hurts
6 all hunters and tourism. And finally, I'd like to encourage the
7 creation of a citizens advisory group to address conflict and
8 the above mentioned goals. I appreciate the motion of
9 Commissioner Ream. Thank you and I do intend to submit some
10 specific written comments.

11 CHAIRMAN REAM: Thank you. Next.

12 MS. COLLINS: Hi, my name is Martha Collins. I'm from
13 Bozeman, a twenty-one year resident. I have a degree in
14 wildlife management. I have been supportive to the wolf
15 management proposal from the state and I support your new
16 motion to close the two districts. I want management of wolves
17 to continue to be part of the state and I think Montana is
18 setting the precedent. I get concerned about previous testimony
19 when people want to target collared wolves, and I think that is
20 unproductive. I think we need to continue to have dialogue with
21 sportsman that are disturbed about elk populations and effects
22 on their outfitting businesses, and I would propose to somehow
23 help you guys come up with a way of getting some of the money
24 from public and the tourism that is around the Yellowstone
25 wolves' area, and I think that might be a good idea to help

1 also pay into some of the wolf research. And I support your
2 proposal.

3 CHAIRMAN REAM: Thank you. Next.

4 MR. ARONSON: My name is Robert Aronson, I'm representing
5 myself, and it's my understanding that state statute 2-3-103,
6 these people now holding this if you change this regulation it
7 is not in accordance to that. And saying that, the Yellowstone
8 wolves have come out, why are they coming out? They're hungry.
9 There's nothing in there for them, enough for them to eat. If
10 there's some of them got collared, Yellowstone does not manage
11 their wolves in any way, shape or form. They bring them out and
12 just put on us. If they get shot, give them some more food in
13 there. Anyway, I won't recommend this closure. Thank you.

14 CHAIRMAN REAM: Next.

15 MR. FANNING: Chairman Ream, distinguished members of the
16 Commission, ladies and gentlemen, my name is Bob Fanning, F-a-
17 n-n-i-n-g. My resume is at Montana Fish, Wildlife and Parks to
18 have become the wolf biologist and contract resolution
19 specialist here in Region 3. I also have my resume in front of
20 Governor-elect to be the next director of Fish Wildlife and
21 Parks. This would have been a wonderful conversation to have in
22 the late 90s or the early 2000's. We have given Mr. Smith 17
23 years to study wolves and collect his data. Mr. Smith bragged
24 to the Alliance for the Wild Rockies that the wolves were not
25 being collared. This was all the way back in 2004 as witnessed

1 by Bob Renault from the Boone and Crockett Association. Now
2 either they have the data and have plenty of data and have
3 learned that wolves do not regulate their numbers with the
4 alpha structure as pointed out by Dr. Mead, also that trophic
5 cascade a yet to be proven science. They've had 15 years to
6 prove it but it would have been what, 1500 years? This land was
7 promised when we changed the legal definition and Sen.
8 Grosfield's bill, back in 2000, from predator to be shot on
9 site to trophy game animal that we would be allowed to hunt
10 this animal. Now it is incrementally taking what is precious to
11 the American and especially the Montana meat hunter which is
12 public land. We're taking that land away from the hunter after
13 dragging this thing out for the last 17 years. So when are we
14 going to deal in good faith with the people of Montana instead
15 of capitulating to politically correct public outside opinions.
16 Either it is a trophy game animal as it was defined in the
17 management plan or we're going to have mob rule, global mob
18 rule as to wildlife management in Montana. What is it? Are you
19 going to honor your word to the people of Montana or are you
20 going to capitulate to public sentiment. Thank you.

21 CHAIRMAN REAM: Thank you. Any further comment?

22 MR. SKOGLUND: Mr. Chairman, Commissioners, my name is Matt
23 Skoglund, and I am here on behalf of the Natural Resources
24 Defense Council and all of our members in Montana and across
25 the country, and as for the issue before the Commission, we

1 support the closure and going forward we support a strong no-
2 take buffer zone around Yellowstone National Park, which is
3 something we previously asked for and going forward we support
4 that, so thank you.

5 CHAIRMAN REAM: Thank you. Any further comment?

6 MR. DUBRINSKY: One more. Mr. Chairman, this is Mark
7 Dubrinsky, and the rest of your committee there, I'd just like
8 to make a couple quick comments. One is a quota or a take this
9 year is 18 percent down from 2011. You know we're not at quota
10 in Region 316. 2011 we took 166 I believe of 220 in the quota,
11 so I don't personally see us having a real quota issue here, so
12 the long and the short I don't support closing down part of
13 Unit 390. I just don't see any reason for it, we're not at
14 quota, and I'd like to encourage you not to do so. Thank you
15 much.

16 CHAIRMAN REAM: Thank you. Any further comment?

17 MR. GREGOIRE: Hello, I'm Bob Gregoire, I've hunted all my
18 life, and I do support this closure. I do not think that it's
19 in the hunter's best interest to be shooting such visible
20 wolves. They talk about \$35 million but, god, you got to
21 believe that that's going to be generated into the anti-hunting
22 groups alone, and so I appreciate this opportunity to comment.

23 CHAIRMAN REAM: Thank you. Any further comment? That it,
24 Pat, in Region 3?

25

1 REGION 3: Chairman Ream, that is all the comment we have
2 here.

3 CHAIRMAN REAM: Thank you. Are there any other regions, any
4 comments from any other regions? Seeing none, I'll just make a
5 couple of concluding comments. Yellowstone National Park is not
6 Isle Royale National Park. Wolves are going to come out of the
7 park in the future and they may, we set a buffer zone they're
8 going to go beyond the buffer zone, we'll get complaints about
9 that. Secondly, I think it's a real problem that wolves have
10 become so human adapted. And I've been down there, and I've
11 seen wolves walking right by. I think that's a travesty, and it
12 is part of the problem of the wolves coming out. They have no
13 fear of humans and they will get shot. Thirdly, again I wanted
14 to remind those people who are opposed to this motion that
15 there are currently no resident packs within those two small
16 areas, so it will have no effect on Montana's, on the quotas on
17 Montana wolves. We have no idea if and how many wolves might be
18 coming out of the park for the remainder of the season, but we
19 have in that area exceeded the harvest of the past two hunting
20 seasons, so this motion, I think, is appropriate for this
21 particular and unique situation. Again, we're still learning as
22 we go on management. And finally, it's grand to talk about the
23 \$35 million that's brought into the state, but that does not do
24 us any good as Fish, Wildlife and Parks because none of it
25 comes to us for management and for research on wolves,

1 including those that may come out of the park. And I would
2 remind you also that of the 83 or whatever somebody said wolves
3 that are left in the park, we donated the Eight Mile Pack, ten
4 wolves, to the park last year, so that's the situation. I mean
5 we are going to have wolf packs moving in the park, out of the
6 park, some years they may be residents of the park by
7 definition because they denned there and other years they may
8 be residents of Montana. So we're faced with this situation and
9 this seems to be kind of a compromise. Is it political? Yeah,
10 wolves are political. They're charismatic megafauna. Is the
11 wolf population in Yellowstone endangered? No, it's not. I mean
12 if you look at Isle Royale at one point in Isle Royale National
13 Park the population was down to six I believe, and it's gone up
14 and down and up and down. And again, the 83 or whatever are in
15 the park right now is nearly half of what was there six or
16 seven years ago, and that has nothing to do with hunting, and I
17 hope people can get away from, I know they love dearly
18 individual wolves in the park, but we need to think in terms of
19 populations, and those are my final comments. Do any of the
20 other Commissioners have any?

21 COMMISSIONER VERMILLION: Region 3, and I appreciate what
22 the Commission and I appreciate the discussion today. I'm going
23 to vote against this motion. I respect the work that Mr.
24 (inaudible) and Mr. Cook have done, and the comments of all the
25 folks that are concerned about the overall wolf population and

1 the effect our management regime is having on the wolf, but I
2 would harken back to what you said in your own testimony and
3 the testimony as was set forth by the Department, and that is
4 that it is my understanding and the Department's and the
5 comments that I saw by the National park officials in the paper
6 this weekend that is that the population is intact and that the
7 harvest at this point doesn't show any indication of damaging
8 the long term viability or sustainability of the wolf
9 population in Yellowstone. I think what we have here is a
10 definite issue of collars, and the collar issue is very
11 different than the population issue. And it seems to me that a
12 lot of public comment is addressing the collars, but I think
13 all of us know that there are collars on wolves throughout
14 Montana. So that's an issue I think we need to look at and
15 figure out a way to work on that for future years, but I guess
16 at this time I'm not concerned that the wolf population in
17 Yellowstone is in danger from our recent hunting, and I would
18 note that, I just want to let it be known that I am going to
19 oppose this motion although I do understand what you're trying
20 to accomplish and I also respect the work of people that, and
21 both sides on the issue, so I appreciate the commentary, but in
22 this particular instance I'm going to vote against this.

23 CHAIRMAN REAM: Thanks Dan.

24 COMMISSIONER: Mr. Chairman?

25 CHAIRMAN REAM: Yes.

1 COMMISSIONER: Just real quickly. Just in response to some
2 of the points that were well made in the commentary and by
3 yourself; that was a well-made statement. Fish, Wildlife and
4 Parks should send a strong message to the National Park Service
5 that they share the big half of the blame for these wolves
6 being killed by practicing excessive human habituation of
7 wolves under their care inside that park. They're doing the
8 same thing to wolves now that they did to bears forty or fifty
9 years ago. They need to change management. Secondly, we need to
10 emphasize to the public a point well made by Mr. Kubista that
11 no precedent for future action is being set here today. This is
12 a unique situation receiving a unique action, and thirdly, I
13 think Fish, Wildlife and Parks should support a bill in the
14 legislature to divert a portion of the bed tax to wolf
15 management. Just me talking. That's it.

16 CHAIRMAN REAM: Okay. We're ready for the vote. All those
17 in favor of the motion signify by saying aye.

18 COMMISSIONER: Aye.

19 COMMISSIONER: Aye.

20 COMMISSIONER: Aye.

21 CHAIRMAN REAM: Opposed no.

22 COMMISSIONER: No.

23 CHAIRMAN REAM: Okay. 4-1. Thank you guys, and with that
24 we're at the end of our meeting and the meeting is adjourned.

25 COMMISSIONER: Thank you.

1 COMMISSIONER: I'll move to adjourn.

2 COMMISSIONER: Second.

3 COMMISSIONER: Third.

4 CHAIRMAN REAM: Meeting's adjourned.

5 END

6
7 The proceedings of the Fish, Wildlife and Parks
8 Commission are audio-recorded and found on the Fish, Wildlife
9 and Parks website. I listened to a portion of the audio
10 proceedings and prepared this transcript based on those audio
11 proceedings. To the best of my knowledge, this is a true,
12 correct, and complete transcript of the portion of the audio
13 proceedings, as I heard them.

14 Prudence Gildroy
15 Prudence Gildroy,
16 Secretary

15 State of Montana
16 Lewis Clark CO

17 Subscribed and sworn to before me this 2nd day of
18 January, 2013.

18 Virginia M Knight

19 Notary Public for the State
20 of Montana residing at Helena.



20 VIRGINIA M. KNIGHT
21 NOTARY PUBLIC for the
22 State of Montana
23 Residing at Helena, Montana
24 My Commission Expires
25 February 26, 2016

21 My Commission expires _____.