

MINUTES
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 1, 1979

The seventh meeting of the Fish and Game Committee was called to order by Chairman Smith at 12:30 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 97, A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 87-3-204, MCA, TO PERMIT THE TAKING OF BURBOT (LING) WITH SPEAR OR GIG WHEN THE DEPARTMENT OF FISH AND GAME DECLARES AN OPEN SEASON TO TAKE BURBOT (LING) WITH SPEAR OR GIG."

Mr. Fletcher Newby, Deputy Director of the Montana Fish and Game Department, explained that the ling is the same fish as the burbot. He encouraged the Committee to support the bill. (Attachment #1, by Mr. Art Whitney)

Senator Galt wanted to know what a ling looked like; Mr. Newby explained that they resemble a snake in many respects.

Senator Manley asked if "spearing" meant that the Department would also allow scuba divers to take them. Mr. Wood Wright, Attorney for the Fish and Game Department, said there is a provision whereby it could be allowed.

Senator Goodover asked why the law must be changed now, since spear fishing of ling has been done before. Mr. Wright replied that when it was not a game fish, it could be fished with spears; when it became a game fish it requires a law to take it by spear. In reply to Senator Goodover's inquiry, he replied that a "gig" is a three-pronged spear.

DISPOSITION OF HB 97: Senator Manley made a motion that HB 97 BE CONCURRED IN. The motion passed unanimously.

At 12:40 P.M., Chairman Smith turned the meeting over to Vice Chairman Galt.

CONSIDERATION OF SENATE BILL 227, A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE APPROVAL OF THE APPROPRIATE COUNTY GOVERNING BODY BEFORE FINAL APPROVAL OF FEDERAL LAND, WETLAND, OR WATER ACQUISITIONS FOR FISH AND GAME PURPOSES."

Chairman Smith, Chief Sponsor of the bill, explained it. He said it would be land acquired only from duck stamp monies. He went on to say that the people of Sheridan County are concerned with the amount of land being purchased by the U. S. Fish and Wildlife Service, and explained the figures in connection with this. (Attachments #2 and #3).

He also read a letter from the Board of Sheridan County Commissioners and passed around a petition in favor of this bill. (Attachments #4 and #5)

Chairman Smith explained that the intention of the bill is to give the County Commissioners of the state the authority to decide about acquisition of these lands. This bill would give them local control of land purchases. He said the County Commissioners will be required to give 21 days notice and conduct public hearings before decision making. He said, under this bill, the U. S. Fish and Wildlife Service could buy the sloughs and the local farmers could buy the farm land; he also mentioned that payments in lieu of taxes will be made on these lands. He reiterated this would involve only duck stamp funds, and that it has nothing to do with Fish and Game Department lands.

There being no other proponents, Senator Galt called for opponents to testify.

Mr. Hank Fischer (no address given) testified in opposition to the bill, saying it was unnecessary since these wetlands account for less than 1/10 of 1% of Montana's lands. He said the state currently has the power to approve or disapprove land purchases, and that the proposed bill would discriminate against the right of the landowner to sell land, as well as removing incentive for landowners to protect wildlife habitat. It was his feeling that this bill would jeopardize wildlife habitat. He said Sheridan County has the best prairie pothole habitat in the state. In summary, he said the amount of land affected is minimal and the present program is funded only through 1983. He feels the proposed bill is unfair to private landowners.

Mr. Hugh Zackheim, Executive Director of the Montana Wildlife Federation, testified in opposition to the bill. (Attachment #6) In addition he referred to a large map of Montana, which he had affixed to the wall, indicating public and private ownership.

Mrs. Sandy Sargent, of Corwin Springs, Montana, testified she and her husband both were opposed to the bill. As presently written, she felt the bill would violate the private property rights of landowners, and that it seemed to apply only to one county. She felt because of this perhaps the problem should be solved in some manner other than a state law.

Mrs. Gael Bissel, of Helena, representing the Environmental Information Center, spoke in opposition to the bill. She pointed out that this bill applies to the entire state, not necessarily the county represented by Senator Smith. She said the bill includes wetlands which were not the greatest concern of bill proponents; their concern was apparently with the loss of farm land. She said they did respect the concern of taking land out of agricultural production.

Mr. Fletcher Newby was acknowledged by Acting Chairman Galt. He said the Department personnel were present not as proponents or opponents to the bill, but merely to provide testimony as a matter of information. (Attachment #7)

Ms. Bissell handed out copies of an article from the Montana Wildlife Magazine, entitled: "Vicious Opposition to Wetlands Acquisition". (Attachment #8)

Acting Chairman Galt called on Senator Smith to comment, in closing.

Senator Smith said he didn't feel the bill would take private lands away from the people of the State of Montana. He said this bill has no effect on easements. Senator Smith went on to say that the map presented by Mr. Zackheim did not reflect the Medicine Lake Refuge or the Fort Peck Reservation. He felt if the present problems continue to exist a lot of private land will be closed. He said the bill simply gives the local government control over local lands. It returns the authority to the County Commissioners. Senator Smith felt that if it doesn't create a loss in tax base, there shouldn't be any problems with it.

Senator Galt mentioned lines 22 through 25 on page 1. This states, "An affirmative recommendation by the governing body must be obtained prior to final approval of all such proposed acquisitions, whether by transfer of title, lease, easement, or agreement." Senator Smith said his intent was that it should say "only by transfer of title."

Senator Smith made a motion to accept the first amendment. Senator Manley asked what the amendment meant. Debbie Schmidt said she had thought when she drafted the bill

that Senator Smith intended it to apply to all acquisition of land; however, it appears that he wanted it only to apply to federal lands.

Senator Anderson asked Mr. Zackheim if he represented a group called "Defenders of Wildlife," which is anti-gun and anti-hunting. He replied he did not.

Senator Goodover asked if the Committee felt the County Commissioners would act any differently if they were to be consulted about the sale of lands. Senator Smith said they have never been consulted about a sale.

Senator Manley asked how many acres of wetlands have been added by agriculture, such as livestock water dams, man-made reservoirs, etc. He asked how these things have added to wetlands, rather than subtracting. There was no reply to his question.

Senator Galt then closed the hearing on SB 227.

Chairman Smith resumed the Chair. He said the Fish and Game Department has proposed to increase fishing license fees and asked the Committee if it wants to sponsor this bill.

Senator Galt feels the Committee should first study the proposed bill and then decide if it should become a Committee bill.

Mr. Newby said this bill was pre-filed as HB 26, but so far it has not been introduced in the House. Chairman Smith asked Mr. Newby to advise the Senate Fish and Game Committee, as to what the House does on the bill. He said if they are not going to act on it, perhaps the Senate Committee will take a look at it.

DISCUSSION OF SB 134, A BILL FOR AN ACT ENTITLED:
AN ACT TO PROHIBIT THE SALE OF RESIDENT AND NONRESIDENT
DEER AND ELK HUNTING LICENSES AFTER THE OPENING DAY OF
THE GENERAL SEASON FOR WHICH THE LICENSE IS ISSUED."

Senator Galt felt this bill should be amended, and asked the Department if it would agree to the amendments previously discussed. Mr. Newby said he could foresee some law enforcement problems with the proposed changes.

Senator Anderson asked how many license dealers there are in Montana. Mr. Newby replied about 400. Senator Van Valkenburg said since the license agents couldn't sell licenses after the 15th day of the season, the public could still obtain them from a game warden and that should work out alright in the case where people simply forget to buy a license.

Debbie Schmidt said she would draft the amendments discussed at the January 27 meeting and have them ready for consideration at the next Committee meeting.

Senator Goodover asked if this were a big enough problem that it requires legislation such as this. Chairman Smith said Senator Severson surely felt it was a big problem. Senator Manley said it is a problem in his area.

Mr. Newby said he doesn't think this legislation will stop people from poaching, but it might help to alleviate the problem somewhat.

It was decided by the Committee that the 15-day stipulation would refer to an officer of the Fish and Game Department rather than to a game warden only.

DISCUSSION OF HOUSE BILL 8, A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO FISH AND GAME."

This bill was heard, along with SB 134, on January 27.

Senator Goodover still feels that page 1, line 16 (changing the word "act" to "title") would expand the law too much. Debbie Schmidt responded that the bill just clears up existing law; it applies to all fish and game laws, rather than the particular act to which it refers.

Chairman Smith said Debbie would have the proposed amendments drawn up and discuss them at the next Committee meeting.

Senator Manley asked why we couldn't amend it further. Debbie Schmidt said, according to the rules of the House and the Senate, you cannot amend these bills to say something completely different from their original intent.

ADJOURNMENT: Chairman Smith adjourned the meeting at 2:00 P.M.

Date 2-1-79

ROLL CALL

FISH AND GAME COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SMITH, Ed, Chairman	✓		
GALT, Jack E., Vice Chairman	✓		
ANDERSON, Mike	✓		
GOODOVER, Pat M.	✓		
MANLEY, John E.	✓		
STIMATZ, Lawrence G.	✓		
VAN VALKENBURG, Fred			

Each Day Attach to Minutes.

Date 2-1-79

ROLL CALL
FISH AND GAME COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SMITH, Ed, Chairman	✓		
GALT, Jack E., Vice Chairman	✓		
ANDERSON, Mike	✓		
GOODOVER, Pat M.	✓		
MANLEY, John E.	✓		
STIMATZ, Lawrence G.	✓		
VAN VALKENBURG, Fred			

Each Day Attach to Minutes.

Attachment #1

STATEMENT IN SUPPORT OF HB 97

BY: Arthur N. Whitney
Fisheries Division Administrator
Department of Fish and Game

Burbot spearing was popular with fishermen in eastern Montana before this species was made a game fish. Burbot populations are high enough to allow spearing in most areas and anglers would like to spear them. I recommend the passage of this legislation.

Attachment #2

MONTANA WETLAND ACQUISITION SUMMARY

MAY 1978

1153-54/84

Fee Acquisition Total

<u>County</u>	<u>Governor's Approval</u>	<u>Cases</u>	<u>Acquired Acres</u>	<u>Cost</u>	<u>Cost Per Acre</u>	<u>Wet Acres</u>	<u>Wetland Percent</u>
Blaine	3,000	1	2,250.5	135,000	59.99	245	10.8
Chouteau	3,320						
Daniels	<u>2,500</u>	4	<u>646.4</u>	31,669	48.99	440	68.1
Flathead	5,000	29	4,236.9	1,568,520	370.20	2,836	66.9
Glacier	5,000	1	96.0	18,240	190.00	27	28.1
Hill	1,000						
Lake	2,000	4	560.0	300,000	535.71	92	16.4
Lewis & Clark	1,000						
Liberty	2,000						
Musselshell	2,000						
Petroleum	1,000						
Phillips	4,000	2	755.9	179,300	231.17	103	13.6
Pondera	2,000						
Lowell	1,000	1	300.0	122,084	406.95	47	15.7
Roosevelt	2,500	2	179.2	14,000	78.13	5	2.8
Sheridan	12,000	51	<u>7,769.3</u>	575,673	<u>74.10</u>	2,201	28.3
Tillwater	2,000						
Teton	2,000	1	251.5	33,952	135.00	197	78.3
Toole	5,000	3	2,283.0	412,214	180.56	410	17.96
Valley	1,000						
Wibaux	1,000						
<u>State Total</u>	63,314	99	19,327.9	3,390,652	175.43	6,603	34.2

Attachment

MONTANA WETLAND ACQUISITION SUMMARY

MAY 1978

Easement Acquisition Total

<u>County</u>	<u>Governor's Approval</u>	<u>Cases</u>	<u>Wetland Acres</u>
Blaine	5,000	6	656
Chouteau	2,000		
Daniels	2,000		
Flathead	1,000		
Glacier	4,234	40	1,622
Hill	1,000		
Lake	2,000		
Lewis and Clark	1,000		
Liberty	5,428	9	428
Phillips	5,000	43	3,860
Pondera	3,601	8	601
Powell	1,000		
Roosevelt	1,000	2	43
✓Sheridan	14,698	79	4,968
Teton	2,050	1	50
Toole	7,013	29	2,131
<u>State Total</u>	58,024	217	14,359

NAME: Gael Bissell DATE: 2/1/79

ADDRESS: 422 Hayes St Helena Montana

PHONE: 443-2520

REPRESENTING WHOM? Environmental Information Center

APPEARING ON WHICH PROPOSAL: # SB 227

DO YOU: SUPPORT? AMEND? ? OPPOSE? X

COMMENTS: ① pt. out this legislation applies to entire state not necessarily the County represented by Sen. Smith

② This legislation includes wetlands which were not ~~part of the farm~~ the greatest concern of bill proponents, their concern was apparently with loss of farm land

③ I respect the concern of taking land out of agricultural production

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PETITION FOR SUPPORT OF SENATE BILL NO. 227

The undersigned hereby support Senate Bill No. 227. This Bill will grant supervisory authority over the United States fish and wildlife on any land purchases made under the Wetlands Programs to the County Commissioners.

NAME	ADDRESS
Ed Smith	Capital Building Helena, Montana
Martin Peterson	Dagma Mt
Margaret Peterson	Dagma Mt
Clay Petersen	Plentywood, mt.
Mrs Ruth Petersen	Plentywood, mt.
Melvin Kuster	Plentywood, mt.
Nick B. Nielsen	Dagma, mt.
Bob Johnson	Plentywood, Mont
J. E. Hoff	Antelope mt
Engelina Buchholz	Antelope mt
Sylvan Peterson	Plentywood Mt
Earl Harkbarger	Plentywood, mt.
Ronald L. Moeckle	Plentywood MT.

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<u>NAME</u>	<u>ADDRESS</u>
Robert L. Gokkie	Antelope
Jack Hyden	Antelope
David Markin	Antelope
Maxyn Roring	Antelope
Robert Freske	antelope
Agrid Johansen	antelope
Valby Rice	Antelope
Robert Hammer	Med. Lake
Lucille Jensen	Sagehen Mts.

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NAME

ADDRESS

Kenneth C. Nyby	Dagmar mt.
Mark Harschberger	Dagmar, mt.
George Melby	Dagmar, mt.
Duane Brentson	Dagmar mt.
Peder Saggard	Dagmar, mt.
Chris Sjoen	Dagmar, mt.
Ulfon Brentson	Dagmar mont.
Henry Cronin	Dagmar "
Paul Paul	Dagmar, mt.
Ronald Suenha	Dagmar, mt.
George A. Nielsen	Dagmar, mt.
H. Elmer Nielsen	Dagmar, mont.
Raymond Baustian Jr.	Dagmar mt.
Le Roy Baustian	Dagmar mt.
Walter & Bernice Baustian	Dagmar, mt.
Raymond Baustian	Dagmar mt.

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<u>NAME</u>	<u>ADDRESS</u>
Nils A. Lodahl	Laguna Mt.
David J. Olson	Laguna Mt.
Alvin K. Peterson	" "
Jerry Stuart	Ripon, Mt.
Gregory Thuesen	Laguna Mt.
Carl Nielsen	Laguna Mt.
Donald Thuesen	" "

File

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The undersigned hereby support Senate Bill No. 227. This Bill will grant supervisory authority over the United States fish and wildlife on any land purchases made under the Wetlands Programs to the County Commissioners,

NAME	ADDRESS
Lyle Olson	Westby
Bonnet Brown	Westby
William Solberg	Westby
Edward M. Brown	Westby
Norma Solberg	Westby
Ellis Hagen	Westby, Wis.
Robert Leminger	Westby, Wis.
Vith Leminger	Westby, Wis.
Harlow M. Brown	Westby, Wis.
Gene Tupton	Westby, Wis.
Harold Jager	Westby, Wis.
Brandon G. Smithson	Westby, Wis.
Basil Anderson	Westby, Wis.
Lawrence Heppner	Westby, Wis.
Larry Litzke	Westby, Wis.
Donald Blome	Westby, Wis.
Chester Olson	Westby, Wis.
Richard Westgard	Westby, Wis.
Junior Pedersen	Westby, Wis.
Sharon Overgaard	"
Emanuel F. Stater	Redstone
Harvey French	Redstone
Ray Campbell	Redstone
Harold (Hulsen)	Westby
James M. Weber	Westby
Ed Peter	Westby

Oscar E. Henderson	- Westby, WI
Norman G. Allen	Westby, WI
Art. Helm	Westby
Wade Drew	Westby
Cedric Peterson	Westby
Richard A. Peterson	Westby
Donald W. Argerich	Outlook
Aileen Johnson	Westby
Tracy Johnson	Plentywood

58

File

PETITION FOR SUPPORT OF SENATE BILL NO. 227

The undersigned hereby support Senate Bill No. 227. This Bill will grant supervisory authority over the United States fish and wildlife on any land purchases made under the Wetlands Programs to the County Commissioners,

NAME	ADDRESS
John Olson	Westly
Gordon Alustad	Westly
Melvin C. Hammer	Westly
Robert Nyby	Westly
Myra Meyer	Westly
Lynden Lagerquist	Westly
Walter Erickson	Westly
William Laska	Westly
Henry J. Meyer	Westly
Robert Lagerquist	Westly
Erwin D. Olson	Westly
Olo Syntreit	Westly
Milo Nordhagen	Westly
Alvin Johnson	Plentywood, Mt.
Allen Johnson	Westly
Darius Wittmaier	Westly
Ellie Wittberger	Westly
John Creech	Plentywood, mt
Arval Herdes	Westly, Mt.
Arvis M. Anderson	Westly, mt.
Norman Overgaard	Westly, mt.
Geo. Nelson	Westly mt
Leslie F. Bousman	Westly Mt.
D. J. Leininger	Westly market
Richard Caska	Westly "
Floyd R. Paul	Westly mt.
W. B. ...	Westly mt.

Harford Reynolds	Westby
Cecil & Gurnsey	Plentywood
Albert Nikola	Westby
Helmer Lee	"
Jerry Ruggles	Westby
Wayne Katerba	Westby
Raymond Kofala	Outlook
Lahmer Peterson	Westby
Blanche Howe	Westby
Kurt. Rice	Plentywood
Paul Steinhilber	Westby
Arnold	Westby
Arthur P. Merrill	Westby
Charles J. Merrill	Westby
Arthur Dege	Westby
Harold Johnson	Westby
William C. Jensen	Alberton
Edmer Westgard	Westby
Brian Elm	Westby

Frank Young	Outlook
Harold Martin	Outlook
Ralph Jensen	Plentywood
Della K. Lee	Plentywood
Dora Tasse	Plentywood
Delores Aubrey	Prud, Mont.
Jeff Nordhagen?	Westby
Kenny Nordhagen?	Westby
W. Johnson	Westby
Deluel Margul	
Bert Rebeckae	Westby,
Pam Grove	Prud

PETITION FOR SUPPORT OF SENATE BILL NO. 227

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NAME

ADDRESS

NAME	ADDRESS
Norman Paulsen	1820 main St Plentywood MT 59227
Edward Paulsen	185 main Plentywood MT 59227
Martin K. Katz	Plentywood
Steve Zeller	
Jens Scholason	Plentywood Mont
Robert J. McQuinn	Plentywood, Mont
Arne M. Nelson	Antelope Pond
George Scholason	Plentywood Mont
Walter Schaeffle	Plentywood
Lawrence Peterson	Plentywood Mont.
Jack Bain	Plentywood Mont
Tom Jussi	Plentywood, Mont.
Steve Stastad	Plentywood Mont
Emil Japper	Plentywood Mont
Don Wahl	Plentywood
Kenit Sorenson	Plentywood, Mont.
Donald L. Benson	Plentywood Mont
Frederick O. Callin	Plentywood Mont
Wm H. Hedges	Antelope Pond
Ray Fisher	Plentywood Mont.
Edon Wahl	Plentywood Mont
Ray Semple	Flapville Montana
Ken Murphy	Antelope Pond

27
Daryl Lyne
Leonard Pearson
Robert L. Man
Wesley Wilford
Terrance K. Hoyt
Richard Sawbridge
Michael
William A. Johnston
Vernon Sondak
Forest M. Flager
Arthur Miller
Kenneth Wice
Wayne Marcus
Eric Holt
James C. Baer
Joseph Eggen
Nathaniel Lindell
Kasper Jensen
Hoyd Johnson
Linnar Ruud
Marvin Severson
Judy W. Adair
Skeldon W. Nielsen
Robert Smith Jr.
Jerome S. Clony
Bill Lork
Gene Eggen
Merton W. Lemmis

Plentywood Mont
Plentywood
Plentywood, Mont.
Plentywood, Mont.
Raymond Mont.
Furwood Mont.
" "
Plentywood, Mont.
" "
Fred Mont.
Huntley Mont.
Plentywood Mont.
Plentywood Mont.
Plentywood Mont.
Plentywood Mont.
" "
Huntley Mont.
Plentywood Mont.
Med. Lake Mont.
Blairville Mont.
Blairville, Mont.
Plentywood, Mont.
Plentywood Mont.
Plentywood, Mont.
Oulok, Mont.
Plentywood
Plentywood Mont.
Plentywood Mont.

PETITION FOR SUPPORT OF SENATE BILL NO. 227

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NAME

ADDRESS

NAME	ADDRESS
Melvin Hellegard	Westby, Mont.
Ralph Heppner	Plentywood, mt
Vale Anderson	Plentywood, mont
Fred Stangord	Plentywood, mt
Jeppi Sorensen	Dagmar, Mont.
Loren Carlson	Westby mont
Doug Beirson	Plentywood, Mont.
Alvin Johnson	Plentywood, Mont
Robert Scott	Outlook mt.
Clyde M. Marsh	Plentywood - mt -
Eale M. Jones	110 So Adams Plentywood, Montana
Carol Wilson	Plentywood MT
John H. Johnson	Plentywood, Mont.
Jim Knick	Plentywood Mont.
Dennis Lee	Plentywood, mt. 59254
Kenneth Wilken	Plentywood, Mont. 59254
Rupert Marsh	Plentywood, mt.
John Sandberg	Plentywood, mt.
Walt Schick	Medicine Lake, mt.
Ernst Ostrander	Plentywood Mont
B. J. Cook	Plentywood Mont
Richard Hoffman	Raymond mt.
John H. Johnson	Outlook, mt.

Shen Huffman

Raymond

Melba Muhl

Plentywood

Fred Ryan

Plentywood

Mitch Perceval

Wolf Post road

David E. Fiedler

Plentywood

Jonella E. Blair

Raymond

Erving Maish

Plentywood Mont

John D. Duhon

In U.C.

Emma Severson

Reserve, Mont.

Engel Thompson

Reserve Montana

Marlene Marsh

Plentywood, Mont.

George Muhl

Plentywood Mont

Allen Marsh

Plentywood Mont

David Smith

Plentywood Mt.

Les Abernath

Dayton Mt.

Donald K. McLean

Plentywood, Mt.

Debra V. Kenner

Plentywood, Mt.

~~John Smith~~

~~Plentywood~~

Roald R. Lutnes

Rte 2 Box 4-A Westby Mt

Alan S. Tommer

Westby, Mont.

Margaret Lagerquist

Westby, Mont.

Howard Hammer

Westby, Mont.

Anna C. Lagerquist

Westby, "

Joel Lagerquist

Westby "

Sig. Lagerquist

Westby "

Normand Bartoe

Westby "

Dick Johnson

Westby "

PETITION FOR SUPPORT OF SENATE BILL NO. 227

The undersigned hereby support Senate Bill No. 227. This Bill will grant supervisory authority over the United States fish and wildlife on any land purchases made under the Wetlands Programs to the County Commissioners,

<u>NAME</u>	<u>ADDRESS</u>
Charles D. Nelson	Rt. 2 - Plentywood, Mt
Kenneth Domrowske	Rt. 2 Plentywood, Mt
Lenny Heppner	Rt. 2 Plentywood, Mt.
Susanna Heppner	Rt. 2 Plentywood, Mt
Dale L. Selby	Rt. 2 Wasley, Mt.
Bill Wagner	R.R. 2 Plentywood, Mt.
Morin Nelson	R 2 Dagnamont
Ralph Schmidt	Plentywood, Mt.

PETITION FOR SUPPORT OF SENATE BILL NO. 227

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NAME

ADDRESS

NAME	ADDRESS
Oak Mcloy	Plentywood
Nicole Muntz	Raymond
David J. Marsh	Plentywood
Aubrey Ferguson	Plentywood
Harold Kaabe	Plentywood
Carl F. Pelt	Plentywood, mt.
Vern J. Viss	Plentywood, mt.
Orral Pederson	Plentywood Mont.
Joseph W. Buckholt	Plentywood Mont.
Neil Nelson	Antelope Mont.
Hermit Johnson	Plentywood Mont.
Jale J. Jorgensen	Plentywood, Mont.
Jerry Hilgand	" "
Tammy Johnson	Plentywood Int.
Gene Hagan	Red tree, Mont.
James Meyer	Woodsy, mt.
Eugene Meyer	Woodsy, mt.
Russ D. Samuelson	Plentywood MT
Don Goff	Plentywood Mont.
Donna Hagan	Woodsy, Mont.

OFFICE OF THE

County Commissioners

SHERIDAN COUNTY

PLENTYWOOD, MONTANA
59254

1/25/79

Attachment # 5

Senator Ed Smith
State Capitol
Helena, Mont

Dear Ed:

I wish to extend my support for your proposal to give County Commissioners some veto power in regards to Federal and/or State Agencies acquiring land and also easements on lands, primarily the Fish & Game Service. In Sheridan County alone I understand that the Governor has authorized the purchase of approximately 15,000 acres.

The figures I use here are approximate. I didn't take time to research the records, but they are reasonably close. In addition to about 25,000 acres of refuge, of which a portion has been given class I air designation, the service has acquired by purchase another 8,000 acres. They are now preparing to bid on an additional tract of about 10,000 acres. They are also buying easements on whole halves, quarters and sections. They have acquired over 10,000 acres so far. They are only interested, they say in the potholes but the easements cover the whole parcel. These easements are as much a danger to our future as the outright purchase.

If this trend continues, and I believe it has already gone to far, we could be prevented from any road building, pipeline construction, or the construction of power and telephone lines or cables. Our county has already been nearly cut or divided in a north south direction on the eastern side.

My concern as a county commissioner is not primarily the loss of revenue at this time. The gov't does have a payment in lieu for land taxes. This does not cover the loss however in taxes you would expect from improvements or machinery etc. Should we move out the people to make room for the ducks? My main concern as commissioner is the continued development of our county and the ability to maintain and improve our standard of living. I can see many detrimental effects of the acquisition of land and easements by government agencies. It could stop or hinder road building and improvement. Oil or potash production, building of gas or oil lines, placement of power and telephone lines or cables could be halted.

NAME:

Hank Fischer

DATE:

8-1-79

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

SB 227

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

X

COMMENTS:

- bill is unnecessary - these wetlands affect for less than 1/10 of 1% of Montana lands

- State currently has power to approve or disapprove land purchases

- law discriminates against right of landowner to sell land - removes incentive for landowners to protect wildlife habitat

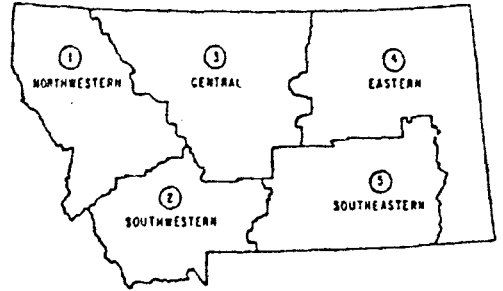
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Attachment # 6

EDUCATION -- CONSERVATION

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



TESTIMONY OF HUGH ZACKHEIM, EXECUTIVE DIRECTOR
OF THE MONTANA WILDLIFE FEDERATION, ON SENATE
BILL 227. DELIVERED BEFORE FISH AND GAME
COMMITTEE ON FEBRUARY 1, 1979.

The Montana Wildlife Federation strongly opposes Senate Bill 227. Our testimony will continue on some of the points the previous speaker made and will also focus on how the Fish and Wildlife Service program affects counties, tax revenues and sportsmen.

The infringement on private rights represented by SB 227 can not be emphasized enough. It has had real consequences on the lives of landowners in North Dakota, where a two-year-old law requires county approval of both state and federal acquisitions for wildlife.

The most well-known example is the Doris Tweeten farm in Pierce County. For over a year Mrs. Tweeten tried to sell her heavily-mortgaged 2,100-acre farm, but received no acceptable offers from area residents. Finally Mrs. Tweeten contacted the North Dakota Game and Fish Department. Because of the area's importance for sharptail grouse and whitetail deer, the Department was very interested. The Department had the land appraised and offered to buy it at appraised value. Mrs. Tweeten agreed to the sale, which would have paid off her mortgage and given her \$30,000 to help support her family. The County Commissioners, however, denied



the sale and Mrs. Tweeten lost her farm to the bank without compensation

In this instance, a willing seller was denied the right to sell private land at market price. The land was at best marginally suited for crop or livestock production and no one in the area was interested in acquiring it. The land, incidentally, was well suited for wildlife.

Why did the County Commissioners disapprove the sale? That, in fact, is a good question. Unfortunately neither the law in North Dakota nor the proposed SB 227 requires any justification for denial of the private right to sell. In North Dakota, I have been sited numerous cases of County Commissioners disapproving private land sales for potential economic gain, for bias against the federal government, or for other personal reasons.

The system of County Commission approval has proven to be arbitrary and capricious. It has fostered abuses, severed private rights and resulted in substantial loss of wildlife habitat.

Now that this same system is proposed for Montana, it's important to look at the existing federal wetland program in the state. One often-voiced objection to federal land ownership is the loss of county tax revenues. A few examples of payments generated by wetlands before and after Fish and Wildlife Service acquisition should relieve anxieties about this point. In Toole County, a 320-acre wetland contributed \$61.16 in county taxes prior to acquisition by the Fish and Wildlife Service. Following acquisition, the annual revenue sharing appropriations to the county amounted to \$366. In another Toole County example, taxes amounted to \$120 (on 60 acres) while revenue sharing totalled \$348. In Phillips County, revenue sharing

exceeded taxes \$156 to \$100 in one case (160 acres) and \$474 to \$86 in another (316 acres). These examples are representative of payments to counties by the Fish and Wildlife Service.

I should also add that revenue sharing payments are based on the current value of the land and are updated every five years. Secondly, revenue sharing money can now be used by counties for any purpose. Previously use of ^{this money} / was somewhat restricted.

The county tax base is unchanged by Fish and Wildlife Service easement agreements. A landowner maintains his entire operation exactly as before and continues to pay all real and personal property taxes. Again, the easement only prevents destruction of the wetlands, and the landowner is paid well for agreeing to preserve these sites.

In terms of acreage out of production, the map of Sheridan County is instructive. The green areas represent Fish and Wildlife Service fee acquisition through the Small Wetlands Program, while the yellow areas indicate the location of easement agreements. As noted previously, the fee areas total about seven-tenths of one per cent of the 1.1 million acres in the county. (Not colored is the Medicine Lake National Wildlife Refuge, also Fish and Wildlife Service property, which represents about 23,000 acres.)

Is the .7% of Sheridan County acquired under the Small Wetland Program too much to set aside for wildlife? Will this amount of land in public ownership result in damage to the local economy?

The Montana Wildlife Federation does not think so. On the contrary, we believe the Small Wetland Program is beneficial both to wildlife

In addition, all Fish and Wildlife Service acquisitions are open to public hunting. These public lands provide habitat not only for waterfowl but also for deer, upland game and countless other species. At the same time, these lands relieve the pressure from the private landowner in providing hunting opportunities to the general public.

In sum, for the landowner, the sportsman and the wildlife, the Montana Wildlife Federation urges your to oppose Senate Bill 227.

#

NAME: Hugh Zackheim DATE: 2/1/79

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? MONTANA WILDLIFE FEDERATION

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: WRITTEN COPY OF TESTIMONY
SUBMITTED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Attachment # 17

STATEMENT ON SB 227

February 1, 1979

I am Fletcher Newby, deputy director of the Montana Department of Fish and Game, speaking on behalf of the department on this bill. We speak as neither proponents nor opponents to SB-227.

The federal statutes setting forth requirements for acquisition of wetlands with monies from the federal bird stamp are confusing. On October 30, 1978, Congress required (PL 95-552) the Secretary of Interior to consult with the county and with the governor or appropriate state agency before purchase or rental of wetlands.

Congress did not, however, repeal the prior requirement that the Secretary of Interior obtain the governor's approval as required by PL 87-383 (16 U.S.C. 715k-5). Thus the secretary must now obtain approval of the governor, and consult with the county commissioners and governor before acquiring wetlands. (Copies of these statutes are attached to this testimony.)

To the extent that this federal legislation aids the state in supervision of wildlife for the effective and efficient implementation of that supervision, the department is supportive; but on the other hand, we are strongly opposed to any further federal encroachment into areas which have traditionally rested with the state. The State of Montana supported the defeat of language in the federal legislation which would have removed the requirement for approval by the governor of such acquisition.

The department and I am sure Montana sportsmen would be distressed if wetland acquisition ceased to be a viable program. Over the

years, the nation's waterfowl resource and sportsmen have benefited immeasurably from this program. We believe this program can continue to function in full compatibility with agricultural interests, if acquisitions are evaluated with these interests in mind.

mbs
(Attachments)



15 to 20 Thousand Acres of Prairie Wetlands Drained Annually In N.D.

Rather than let Mrs. Doris Tweten sell her farm to the state's Game and Fish Department, the Board of Pierce County North Dakota has allowed a bank to foreclose on the property, the Wildlife Management Institute reports. Instead of selling the farm for a profit, Mrs. Doris Tweten and her six children lost it.

The bank had granted Mrs. Tweten a year to sell the farm, after finding that she could not meet the mortgage payments without her husband there to help. But no one was interested. The North Dakota Game and Fish Department finally learned of the 2,104-acre property, which has excellent wildlife potential, and decided to buy it....offering Mrs. Tweten about \$30,000 above the mortgage. She agreed, but the County Board refused. The farm was taken by the bank.

"We had the farm for 10 years," Mrs. Tweten said. "I could have used the money. You know with six kids."

This tragic situation is a predictable result of rank efforts by some state and local governments to stop land acquisitions for wildlife.

The U.S. Fish and Wildlife Service has encountered the same problem in North Dakota as did the Game and Fish Department, and, the efforts could be even more serious for wildlife, having international repercussions.

Six to seven million ducks and untold millions of other migratory birds which cross international borders breed in the prairie wetlands of North Dakota and surrounding states

each year. Those wetlands, however, are being destroyed. About 15 to 20 thousand acres of prairie wetlands are being drained annually in North Dakota alone.

The Fish and Wildlife Service is charged by federal law and the U.S. is bound by four international treaties with protecting migratory birds. To do that, the Service must acquire and protect small wetlands that sustain those animals. Federal law gives it that responsibility. The law also gives the governor of a state veto authority over such acquisitions. North Dakota governor Arthur Link has threatened to use that veto power to prevent all fee title acquisitions until the federal government approves the Garrison Diversion Project. That project would destroy more than 500,000 acres of wetlands used by wildlife in order to provide land and water for irrigated farming.

Furthermore, North Dakota enacted a law last year giving county boards veto authority over wetland sales to state and federal governments. It also outlawed perpetual easements on wetlands.

Link's ridiculous requirement that outright purchases be credited to mitigating a controversial irrigation project and the restrictions of the 1977 law on easements has forced the Service to cease all wetland acquisition in North Dakota. The important migratory bird habitat there now has a bleak future and landowners have become prey to government interventions that some lawyers believe are clearly unconstitutional because they prohibit land

sales between a willing seller and a willing buyer.

Since the North Dakota situation appears to be a blatant obstruction of federal programs mandated by statutes and treaties, conservationists expected the Interior Department to challenge in court. According to Assistant Secretary Robert Herbst, however, Interior will not go to court, but will wait for "other parties" to do it. The much-publicized "buck" obviously didn't stop on the President's desk this time. Since Governor Link is a democrat and the Administration has a way to go in winning the west in 1980, there is speculation that a significant part of the migratory bird resource suddenly became expendable. How else, one observer asked, can Interior's refusal to carry out its statutory and treaty responsibilities be explained?

A partial solution to the Service's wetland acquisition problem was passed by the House recently. The bill, (H.R. 13372) among other things would repeal the governors' veto authority over acquisitions that involved willing sellers. That measure has hit a snag in the Senate however where Senators Malcolm Wallop (Wym.), Kaneaster Hodges (Ark.) and Quentin Burdick (N.D.) apparently want to scuttle the provision that would repeal the governors' veto. Principal sponsors of H.R. 13372 have not agreed to that change. Consequently there seems to be little hope for the legislation this year.



NAME: Brendy Sargent DATE: 2/1/79

ADDRESS: Carew Springs, Mt

PHONE: 442 - 7268

REPRESENTING WHOM? myself + my husband as ranchers

APPEARING ON WHICH PROPOSAL: 3B 227

DO YOU: SUPPORT? AMEND? ? OPPOSE? X

COMMENTS: as presently written, violates the private
property rights of landowners + seems to apply
only to one county so perhaps should be solved
in some other manner than a state law.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

February 1, 1979

MR. PRESIDENT

We, your committee on FISH AND GAME

having had under consideration HOUSE Bill No. 97

Respectfully report as follows: That HOUSE Bill No. 97

BE CONCURRED IN

DO PASS

Ed.