MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 26, 1987

The meeting of the Senate Fish and Game Committee was called to order at 12:30 P.M. on March 26, 1987 by Chairman Ed Smith in Room 325 of the Capitol Building.

ROLL CALL: All member of the committee were present at roll call.

CONSIDERATION OF HOUSE BILL 530: Representative Orval Ellison House District No. 81, sponsor of the bill, stated that the bill is an act to permit the sale of progeney raptors held for breeding purposes. The proposed bill would put Montana law in "sync" with the federal law. The raptor breeding projects are expensive and are monitered closely by the Fish, Wildlife and Parks Department.

PROPONENTS:

John Tubbs, Bozeman, MT, representing the Montana Falconers' Association, stated support of House Bill 530. Mr. Tubbs stated that the bill would bring Montana's regulations into "sync" with federal regulations on the sale and captive breeding of falcons. The federal propagation regulations were designed to encourage, captive production of raptors for conservation, recreation, scientific and breeding purposes. The legislation would increase genetic diversity in captive populations and would alleviate human pressures to wild populations of the raptors. Twenty states have adopted the proposed legislation. North Dakota is in the process of adopting said legislation at the present time. Montana would be the last state in the Northwest accepting the federal regulations. The International Association of Fish and Wildlife Agencies supports the drafted legislation. Mr. Tubbs stated the number of peregrine falcons held for breeding purposed has tripled, the number of young produced has doubled, and the number of peregrines donated for conservation has almost doubled. Commercialism would be difficult because the seamless band required for all captive birds of prey cannot be removed. The band is attached at an early age. The rules for recording when an egg is laid until it is hatched restricts the taking of birds from the wild and placed in captive breeding projects. Raptors and parts of the raptors are currently owned and controled by the federal government due to the mandate of the Manditory Bird Treaty. The project cannot be considered a privatization of wildlife. The federal government owns and controls the adult birds, the young, the eggs and the offspring whether the birds are sold or not sold. Mr. Tubbs compared the

concept with that of Montana Water Rights. Mr. Tubbs closed the testimony by stating that the proposed legislation adds no additional expense to the state.

There were no further proponents to HB 530.

OPPONENTS:

Jim Flynn, director of the Fish, Wildlife and Parks Department, offered written testimony to the committee. (Exhibit 1)

Janet Ellis, Montana Audubon Legislative Fund, presented written testimony to the committee. (Exhibits 2 and 3)

There were no further opponents to HB 530.

QUESTIONS FROM THE COMMITTEE:

Senator Bishop asked Mr. Tubbs to address the sport of falconry regarding federal law. Mr. Tubbs stated the federal law is designed to recoup cost so that more private breeders could breed rare species, such as the peregrine. More breeders would then build the needed facilities and would learn how to breed raptors. Not all peregrines are endangered. The Anatum is the only endangered specie of falcons. Under federal law, all captive bred peregrines are considered to be non-endangered.

Senator Bishop asked if the legislation would have any effect on the wild population. Mr. Tubbs replied that the legislation will only add the peregrines to the wild population. The reason for wanting to be able to sell the peregrines is to recoup breeding expenses. The highest price paid for peregrines in 1986 was $2,500 while the low was $400. The Bob Berry breeding operation in Sheridan, Wyoming charges approximately $900. The costs stated do not include time or the building of the original facility. The cost is for the upkeep of a pair of bird to be used for breeding purposes for a period of one year.

Senator Bengtson asked who would be in the market to buy falcons. Mr. Tubbs replied other falconers would be interested in buying falcons. The Midwestern states receive all the falcons that are released from private breeders. Senator Bengtson asked how many falcons are there in the United States. Mr. Tubbs replied that that he could provide the figure at a later date, but stressed the population on falcons is on the rise. The success rate of the the Anatum on the East Coast is remarkable, and the success is gaining in the Rocky Mountain areas. The Tundra Peregrine has made a tremendous comeback over the last ten years.

Senator Bishop asked Janet Ellis for sale figures concerning falcon sales in other states. Ms. Ellis replied the Audubon's figures were in agreement with the figures supplied by Mr. Tubbs. Falcons were taken out of the wild in the "Operation Falcon" episode and the Audubon is concerned that similar situations could happen again. A $2,500 profit could be realized from a sale of a peregrine taken from the wild.

Senator Smith asked if banding requirements prohibit the illegal taking of the peregrine. Ms. Ellis stated that the bands are considered to be a potential deterrent. The banding process is much better than a few years ago. The falcons always come back to the same nesting place, therefore, a "poacher" could determine when the eggs are ready to hatch so the falcons could be banded. The "Operation Falcon"episode was a case where the poachers were actually caught in the act of removing the "evidence."

Representative Ellison closed by asking the members of the committee to read the fact sheets presented by Mr. Tubbs. According to C.R. Bavin, Chief, Division of Law Enforcement, no violations using the new seamless bands have occurred. All falcons are not on the endangered list.

The hearing on HB 530 was closed.

CONSIDERATION OF HOUSE BILL 730: Representative Bob Bachini, House District No. 14, sponsor of the bill, stated that the bill is an act to require a certificate of ownership for motorboats and certain sailboats that are twelve feet in length or longer. The U.S. Coast Guard has taken steps towards federal legislation requiring titles on all boats in the United States. The preference is that the state initiate the title action rather than the initiation being at the federal level. Federal money may be withheld from the states if the states do not comply with the requirements. Financing of motor boats will be easier, as will the the identification of stolen boats. Ten percent of stolen boats are recovered. Therefore, this legislation will aid in the recovery of many more stolen boats. According to the U.S. Coast Guard, Montana is a "dumping ground" for boats stolen in other areas. The delayed effective date is July 1, 1988 so the department can utilized grant money to minimize cost to the state.

PROPONENTS

Dave Seifert, Flathead Sports, Kalispell, MT, Montana Boating Association stated there is a need for boat titles. Seifert explained that boating registration slips proved meaningless information showing only that the individual has paid taxes and nothing else. Ownership cannot be proven. Manufacturers

of boats want potective legislation for business ventures. Boating Associations, as well as the U.S. Coast Guard, are pushing for a uniform title act for boats.

Ken Hoverstal, Montana Snowmobile Association, stated the Associaiton has worked with the Montana Boating Association in drafting the legislation to accomplish a uniform title act that would protect ownership of boats. Registration is not proof of ownership. Titles for snowmobiles have been required, and in many circumstances, the titles have proved to be advantageous.

There were no further proponents.

OPPONENTS

There were no opponents to HB 730.

QUESTIONS FROM THE COMMITTEE

Senator Smith stated that farm equipment require serial numbers. Keeping records of the serial numbers have controlled machinery theft. Senator Smith asked if boats have serial numbers at the present time. Since 1974, the Coast Guard has required serial numbers on boats.

Senator Smith asked about the application of permits for boats that have been previously purchased. Senator Smith asked for an explanation concerning the language in the bill that addresses the documentation, and is to accompany the application. Documents, such as invoices, bill of sales, foreign titles, official certificates of boat numbers, tax receipts, and Department of Revenue certifications, are to be listed with the applicants' taxable property. Bachini replied that the amendment was added in the House Taxation Committee to enable the individual owner to use such documentation for identification of boats that had been previously purchased. The procedure had been used for snowmobile identification, and it was satisfactory.

Representative Bachini closed by stating the legislation protects boat investments. Montana will discontinue being a "dumping grounds for stolen boats." The recovery of stolen boats will be expidited. Senator Jergeson agreed to carry the bill in the Senate, should the committee approve the legislation.

CONSIDERATION OF HOUSE BILL 406: Representative Ed Grady, House District No. 47, sponsor of the bill, stated the bill transfers the Outfitters and Guides from the Fish, Wildlife and Parks Department to the Commerce Department. The bill also changes the name from the Outfitter's Council to the Board of Outfitters, and transfers the license authority to the Outfitters. A five member board will be set up and consist of one individual from

each Fish and Game district. The Board will adopt rules for licensing, and will provide penalties for various violations within the industry. The outfitting industry brings over $40 million into the state's economy annually. The proposed legislation will enable the industry to set rules and standards, while the enforcement of the laws will remain with the Fish, Wildlife and Parks Department. Grady stated that the legislation was proposed early in the session to allow time for an exchange of ideas.

PROPONENTS

Jim Flynn, Director of the Fish, Wildlife and Parks Department gave written testimony to the committee. (Exhibit 4)

Roland Cheek, Outfitter and Guide, Columbia Falls, Secretary-treasurer for the Montana Outfitter and Guides Association, stated that he represents himself. As a member of the legislative committee for the Associaiton, he actively sought information concerning the feasibility of the legislation. Mr. Cheek stated that he spoke with the Department of Commerce and with the Attorney General's Office. The time is right for the industry to present a professional image to the state of Montana.

Smoke Elser, Montana Outfitters and Guides Association, stated the association's membersip is grown. The present enrollment is approximately 150 members. Elser stated it is time the Montana Outfitters and Guides control the industry's destiny and professionalism by regualtions and licensing procedures under the direction of a board. The outfitting industry has demonstrated its worth in Montana's economy. Now is the time for the industry to upgrade standards and professional ethics. Elser reported a survey in which 150 members were polled. The results were 116 in favor and 34 opposed. Again, a survey was taken at a recent meeting of the Outfitters and Guides held in Helena. The results were 61 in favor and 17 opposed.

Robert Vandervere, a concerned citizen lobbyist, stated support of HB 406.

Tagg Riddle, President of the Outfitters and Guides Association stood in support of HB 406.

Jeanne Klobnak, Montana Wildlife Federation, stood in support of HB 406.

OPPONENTS

Eugene Lee, Outfitter, reported that the Montana Outfitter Council sponsored meetings throughout the state to inform members of the proposed legislation: HB 406. One pertinent survey reported 58 votes against, 4 votes in favor, 7 members were undecided, and 13 were not eligible. Presenty, Colorado is the only state that has the Outfitter and Guide Industry under the Department of Commerce, and Colorado is currently seeking to be administered by the Department of Fish, Wildlife and Parks, as it once was. Idaho and Alaska have independent boards. All other western states have the industry under the Department of Fish, Wildlife and Parks.

Ralph Holeman, rancher and outfitter, offered written testimony in opposition to HB 406.

Bill Meyers, Montana Outfitter and Guides Association, self employed businessman stated opposition to the bill as it is presently written. His concern is in regards to the membership of the board. Beyers questioned the cost and time elements in reorganizing the Outfitters and Guides Industry within the Commerce Department.

There were no further opponents for HB 406.

QUESTIONS FROM THE COMMITTEE:

Senator Jacobson questiond concern voiced about membership of the proposed board. Mr. Elser stated the the Montana Outfitters and Guides Association is confident in a selection of a liaison member.

Senator Jergeson asked Representative Grady whether the Outfitters Council is currently an advisory council. Yes. Director Flynn stated that the outfitting industry is a multimillion dollar business and because of the size of the industry should be self governed.

Senator Severson asked how the proposed board would receive funding. Director Flynn stated the Outfitter Board would receive $108,000 through licensing fees collected from each Outfitter and Guide. The Board would receive $6 for each license. The total cost for a license is $100 for an Outfitter and $25 for a Guide. There are 325 Big Game Outfitters in the State of Montana. Twenty-five percent of the total Outfitters belong to the Association. Elser stated that the annual convention held in December draws approximately 150 licensed Outfitters.

Senator Severson asked Elser why the legislation is important to the industry. Elser stated the Outfitters serving on the Board must be completely familiar with the industry. Fifty

percent of the fines would be earmarked for the Board's administrative costs and fifty percent would go to the counties. The legislation brings the funds back into the state fund. Elser stated membership will be elected by peers within the five Fish and Game Districts thoughout the state.Currently, the industry is facing a crisis. In order to respond to constraints within the industry, a professional attitude is required for the entire spectrum of the industry.

Mr. Cheek stated that the Board would not put a lid on the number of outfitters within the state.

Senator Ed Smith stated as a member of the subcommittee that sets budgets for the Department of Commerce, and for the Occupational and Licensing Boards, he has concerns whether or not all the outfitters would have to be members of the Montana Outfitters and Guides Association. No, according to Mr. Cheek, membership is voluntary. Senator Smith stated according to personal experience, members that are not associated with the particular interest groups do not receive the proper considerations that the licensees and members receive. Although the proposed board would be set up differently than other boards, the situation discussed must be carefully considered. Elser replied it would be his hope that the Board would be fair at all times.

Senator William Yellowtail asked how many individuals affiliated with the association are not big game outfitters. Elser replied that ten percent would be a fair estimate. The total number of Outfitters is 604. The hunting Outfitter totals 325. The floating outfitters number approximately, 200 and they are not in favor of the legislation.

Representative Ed Grady stated that he attended a meeting held on February 1, 1987. Discussion held at that time encouraged the drafting of HB 406. The industry was encouraged at that time to take an active part in drafting the legislation. The industry is strong within Montana and will continue to grow.

Senator Smith closed the hearing on House Bill 406.

CONSIDERATIN OF HOUSE BILL 465: Representative John Cobb, House District No. 42, sponsor of the bill stated the legislation is an act to allow golden eagles to be captured for the sport of falconry. Currently, under Montana law, the capture of golden eagles is illegal. The federal government and other states allow capture with deprivation permits or by the retention of birds that have been injured. The eagles obtained by these methods may be used for the sport of falconing. Some individuals have illegally kept eagles that have been injured during training.

This practice is strictly against the law. Regulations would be drawn up by the Fish, Wildlife and Parks Department and patterned from federal legislation.

PROPONENTS:

Jim Flynn, Director of the Fish, Wildlife and Parks Department gave written testimony to the committee. (Exhibit 5)

John Jeffery McParlin, Great Falls, MT, stated that he is a member of Wings to Freedom, a non-profit organization that is dedicated to the rehabilitation and release to the wild of sick, injured or otherwise incompacitated birds of prey. McPartlin stated support of HB 465.

There were no further proponents to the legislation.

OPPONENTS:

There were no opponents to HB 465.

QUESTIONS FROM THE COMMITTEE:

Senator Yellowtail asked if passage of the legislation occurs, will it indicate future legislation in regards to the sale and breeding of golden eagles.Director Flynn stated it may be possible that legislation would be forthcoming. It is a possiblity, but not a reality. Captive breeding of golden eagles possessed for the sport of falconry is prohibited under current law.

Representative Cobb closed the hearing on HB 465.

EXECUTIVE ACTION

DISPOSITION OF HB 535:

Senator Smith stated that he has had dialogue with many people from Montana and from the United States concerning the inequities of the U.S. Postal Service concerning mail delivery at the time of the Fish and Game license processing.

Senator Jergeson offered a series of amendments for consideration. The committee has vitally struggled with the issue under consideration. Jergeson stated a dedication on the part of committee members trying to resolve the issues. The amend ments would eliminate any set asides, provide a random drawing held on the first Tuesday in December, and provide an application period a month prior to the drawing. The drawing can be made for one to four people in each party. One week after the drawing, the name and addresses would be made public. This practice will afford land owner guides and the Guides and Outfitters

access to the names of people successful in the drawing. The amendments reduce the number of B-11 licenses from 6,000 to a maximum of 3,000.

Senator Jergeson stated that amendment number 7 would provide an increase of the B-10 licenses to 20,000, so the potential market would be increased by 3,000. The additional revenue would be used for special purposes to enhance the quanity and guality of game resources available to Montana Sportsmen. Senator Jergeson stated the current set aside program established by administrative rule has worked to the detriment of the outfitting industry. Whenever set asides are legislated, the market will eventually out strip any given number. The set asides is then detrimental to the very people who originally benefited from the legislation.

Senator Smith stated the printed application form should be made available by January 10th of each year. The sale date should be about the 15th of February: December would be too early.

Senator Jergeson defended the rational used for the early December date. The advised date would give plenty of time and opportunity for the industry to market services and facilities to successful applicants. Director Flynn agreed that the forms could be made available by January 10th. The March 15th sale date was possible.

Senator Severson stated problems with the 6,000 Eastern Montana licenses would be due to the numbers of deer. Senator Severson said the language on lines 8, 9, and 10 on page 2 of the bill would read: "not more than 6,000 Class-B licenses may be sold in each license year." Deer can take a very hard winter and a hard kill. The Fish, Wildlife and Parks Department should have the latitude to control the game population. Regardless of the amount agreed on, one-thid of that amount would be considered for each group.

Senator Bishop asked Director Flynn about the fact that there is no support for extra deer licenses in Eastern Montana. Senator Bishop quoted a March 7, 1987 Billings Gazzette aritcle by Arnold Olsen. The news article revealed that public hearings across the state show an over whelming opposition to the 6,000 Class B license plan. There is no public support for the legislation. The sportsmen have not had a chance to address the issue. The legislation increases the nonresident licenses by 20%.

Senator Bishop stated he would not support the legislation without the public being able to address the issues. The 6,000 figure should be amended due to the tremendous impact on the elk herds. Between 2,500 and 3,000 hunters who previously purchased the combination licenses will now be hunting elk. Another 3,000 B-10 licenses would increase the people hunting elk to 23,000. This is one-third more people hunting elk than last year.

Senator Smith stated that many people come to Sheridan County, which is located in Eastern Montana, and buy the combination license, but do not hunt elk. Senator Bishop stated that the figures he used in testimony were the figures quoted by Director Flynn two day previously in testimony.

Senator Jergeson stated that the numbers used for the propsed amendments were numbers that were addressed in HB 535.

Senator Smith stated in 1985 the nonresident deer licenses were issued as follows: B-7 for 2,500, B-8 for 18,477, and the B-10 for 3,500. The 1984 figures were issued as follows: B-7 for 5,000, B-8 for 25,157, and the B-10 for 3,500. The total number of nonresident hunters for 1985 was 24,477 and for 1986 was 33,657. The B-11 license figure was 24,000 in 1985; In addition, there were 17,000 additional hunters for a total of 41,000 hunters.

Senator Yellowtail stated that there are two options. The first is to pass the legislation in the HB 535 form and set a limit on the number of licenses that are set aside for the Outfitters. The action would "buy" the same problem in two years. Undoubltedly, there will be more applicants than licenses and a drawing would have to take place. The second option is to address the bottom line problem. This is the alternative offered by Senator Jergeson. The number of out-of-state licenses has been capped at 17,000 since 1975. It is time to review the 17,000 figure. Everyone would stand a fair chance of receiving licenses if the set aside program was removed and would provide a long term relief for the problems. The "rub" is that resident hunters would compete with the nonresident. The middle ground is to perpetuate the present hassle and pass HB 535 with an adjusted number of B-11 deer licenses. Then in the interim, a full scale study would be made on hunting policies of the nonresident hunter. Public hearings would be held.

Senator Yellowtail stated that the proposed legislation is a viable alternative.

Senator Anderson asked if there is a proposed interim study for Fish and Game issues. Senator Smith stated there have not been requests made at the current session. Senator Anderson agreed that an interim study is an option.

Director Flynn replied that the state has sold an average of 17,000 nonresident combination licenses. In addition 3,000 Deer-A licenses have been sold for Eastern Montana.

Senator Bishop said the debate is overlooking the number of game available for harvest. The animal resourse must be addressed.

Senator Severson said that the game population must be managed in Eastern Montana because the flexible nature of the deer population.

Senator Jergeson stated that 6,000 was reduced to 3,000 and the management issue would be left to the discretion of the Commission. Jergeson stated the resource enhancement idea was a necessary consideration.

Senator Bishop expressed concern about the public attitude existing because no consideration is made concerning the nonresident impact in Eastern Montana. The average Montana hunter does not realize the vast number of out-or-state hunters.

Senator Bengtson stated that her constiuents are opposed to additional out-of-state hunters. They are also opposed to the set aside programs. A random drawing is a vialble alternative.

Senator Yellowtail moved to amend HB 535 with amendments 1,2, 3,4,5,and 6. Number six would read the first Tuesday of January and the first Tuesday of February.

Senator Jergeson said the amendment 1 assumes passage of amendment 7, so it should be disregarded.

Senator Smith adjourned the meeting at 3:05 until 7:00 P.M. in the evening.

The meeting was called to order at 7:45 P.M. in Room 325 of the Captiol Building.

EXECUTIVE ACTION

DISPOSITION OF HB 152: Senator Severson moved the committee to recommend a BE CONCURRED IN ON HB 152. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 211: Senator Smith stated the bill by Representative Devlin is an act to probibit harrassment of hunters and trappers. There are problems in the Eastern United States. Harassment could occur in Montana. Senator Jergeson moved the committee to recommend a BE CONCURRED IN AS AMENDED. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 322: Senator Severson moved the committee recommend a BE CONCURRED IN on HB 322. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 406: Senator Jergeson offered an amendment to sunset the Board of Outfitters. The sunset year would be 1991. Senator Bengtson stated that the date will be reviewed over the four year period. The motion passed unanimously.

Senator Jacobson made a motion to remove the five year experience clause. Senator Bengtson asked why five years experience is necessary. Smoke Elser stated the person serving on the Board should understand the workings of the outfitting industry. Jacobson stated that the five years experience clause is very unusual provision. The governor uses discretion in making appointments. The motion passed. Senator Anderson voted nay.

Senator Bishop made a motion to ask the committee to recommend a BE NOT CONCURRED IN. Senator Jacobson stated resistance to the motion. Senator Bengtson stated the outfitters have not had full consensus within the organization, but desire a high degree of professionalism. Senator Severson approved the four year sunset clause. Senator Smith stated that the Guides and Outfitters are mistaken in their concept that the board will resolve problems. The Board of Outfitters will be separate from the Fish, Wildlife, and Parks Department. Input and coordination will be lost between Outfitter and the Department in the quest to resolve problems and handle duties.

Senator Bengtson asked if any board had ever been dissolved. Senator Jacobson reported that the Board of Massage Therapy was the only board dissolved.

The motion by Senator Bishop to recommend a BE NOT CONCURRED IN failed. Senator Bishop voted yes.

Senator Bengtson made a motion that the committee recommend a BE CONCURRED IN. The motion passed with Senators Smith and Bishop voted no.

DISPOSITION OF HOUSE BILL 465: Senator Smith stated that the bill is an act to allow golden eagles to be captured for the

sport of falconry and limited to eagles taken because of deprecation or eagles that have survived a bad accident. Senator Severson moved the committee recommend a BE CONCURRED IN OF HB 465. The motion passed with Senator Yellowtail voting no.

DISPOSITION OF HOUSE BILL 530: Senator Severson made a motion that House Bill 530 BE CONCURRED IN.

Senator Bengston stated that it was her impression that falconry is a hobby. Senator Bengston questioned whether money should be made by selling the raptors. Even though the raptors are owned by the federal government, the cost is high to breed and raise the falcons. The falconers do a favor for society by breeding the species, yet it is an expensive hobby. Senator Bengtson questioned why the falconers should be reimbursed.

Senator Severson wondered how long raptor are away from the wild before they are no longer condidered wild. Evidently, some falcons are many generations from the wild and bred in captivity.

Senator Smith stated that the raptors are released at a comendable rate. Senator Bengtson memtioned concern about nest robbing, and the stealing of the young. Smith stated that conscientious individuals once save the buffalo from extinction. The raptors are tagged and strictly regulated. Senator Yellowtail comment on a sting operation that occurred approximately 3 years ago. A roll call vote was taken. The motion tied with Senators Smith, Anderson, Bishop and Severson voting yes.

DISPOSITION OF HOUSE BILL 329: Staff Andrea Merrill discussed the Audubon amendments. Senator Yellowtail moved the whole set of amendments including to strike "AND" and "TURKEY" from line 2 on page 2 and to strik "SIC POINT OR LARGER BULL ELK" and "FOURPOINT OR LARGER BUCK." Also, insert "pallid and white on page 1, line 21.

Smith questioned another bill, House Bill 740, which standardizes the the collection and disbursement of fines. Fifty percent goes to the county and fifty percent goes to the state. Senator Yellowtail did not anticipate a conflict. The motion passed unanimously. Senator Yellowtail moved the committee to recommend a BE CONCURRED IN AS AMENDED. The motion passed. Senator Severson voted no. Senator Yellowtail will carry the bill in the Senate.

DISPOSITION OF HOUSE BILL 322: Senator Yellowtail moved the committee to recommend additional consideration of HB 322.

The motion passed. Senator Yellowtail stated the amendment is a coordination amendment to provide consistency between HB 322 and HB 163. House Bill 163 redefined "under the influence." Senator Yellowtail moved the committee to recommend a BE CONCURRED IN AS AMENDED. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 730: Senator Jergeson moved the committee to recommend a BE CONCURRED IN on HB 730. The motion passed unanimously. Senator Jergeson will carry the bill to the Senate.

DISPOSITION OF HOUSE BILL 535: Senator Smith stated the Guides and Outfitters requested time to address the committee concerning the needs of the industry. Ron Curtiss, Kalispell, MT, gave a thorough overview of the industry's economic requirements. Jim Kehr, Montana Wildlife Federation, discussed the set aside issue at length.

Senator Yellowtail asked what would happen if arbitrary limits were set, and the number of applications far exceeded the limit. The situation would mandate a drawing.

Director Flynn stated according to his intrepretation, March 15th would be the date the applications would be available for sale. Ron Curtiss said the licenses would be on sale for the entire 30-day period or until the licenses are completely sold out; whatever situation occurred first. Unless, an enormous increase in the number of applications takes place, there would not be a drawing. The previous history of the application and sale records indicate the number of applications will not exceed the estimate. Senator Smith stated that if there are 7,000 applicants, there will be a drawing. Curtiss stated the thrust of the bill calls for a set aside amount. Senator Yellowtail stated that the bill addresses a situation where there will be excess licenses, but stated that the bill does not address what is to be done with the excess application received. The language of the bill should be clear in defining that a drawing would take place should said situation occur.

Senator Jergeson asked Mr. Curtiss what day would he recommend to the clients to get the applications to the Department. Curtiss stated that he will request the applications be submitted to the Department on the day the client books the reservation. The applications should be available as soon as possible. Senator Jergeson stated that every Outfitter and Guide will make sure that the individual clients submit the applications as soon as possible. The demand exceeds the supply on the first day due to overbooking, and this will continue.

Senator Smith stated that the committee should address the issue whether or not the committee would support an additional number of the nonresident licenses. The issue is a deciding factor that must be addressed before other issues can be decided.

Senator Severson stated that the applications that are received should be considered to have been received on a particular date; thereby giving a buffer period so that all the licenses will be eligible to be considered, or to be eligible for the draw. Senator Smith stated that this is the procedure that is currently used. Director Flynn stated that the Department had the license application arriving in the "shop" on February 22 and February 23. The licenses went on sale on February 24. The three dates were considered by the Department to have been received on the same day. Senator Smith agreed with the concept, but stated that the period of time was too short. A longer period of time is needed so that the licenses can be returned from areas that are located long distances from Helena, MT.

Senator Jergeson questioned the time frame in which the licenses would be considered to have been received on the same day. A specific date must be chosen for the deadline for applications. Then, as long as the applications arrive by the proposed date, the licenses will all be considered to have arrived on the proposed date. Senator Jergeson stated that every astute Outfitter-businessperson will book as soon as is humanly possible.

Senator Severson stated that the original language of the bill should be reinstated to read: "NOT MORE THAN 6,000." This language puts the management back within the jurisdiction of the Fish, Wildlife and Parks Department. Consideration must be made for the landowner who is a sponsor, for the Outfitter and Guides as a group, and for the nonresident who prefers to hunt without a Guide or Outfitter. The number of applications available should be divided into thirds so that each group would account for one/third of the entire allocation. The allocation would be subject to change for management reasons and the discretion of the Commission.

Senator Smith stated that the landowner-outfitters should keep records concerning the number of hunters who hunt on their land and the number of game harvested. The records should be submitted to the Fish, Wildlife, and Parks Department.

Senator Severson stated that there may come a time when the 6,000 figure would not be available to be harvested due to biological reasons. Therefore, if the language stated that each group would be divided into thirds, the division would be

automatically taken care of. Senator Severson moved that the committee recommend the one/third concept of allocation of the nonresident applications.

Senator Smith asked if the 6,000 licenses would come out of the total number of nonresident licenses. Directory Flynn stated that the 6,000 licenses are considered to be a new class of licenses: The B-11 license. The Fish and Game Commission has present authority to siiue as many Deer-A licenses as the Commission deems proper. Senator Smith asked if the 6,000 amount could be taken out of another proposed figure so that an additional 6,000 is not added to the total amount of nonresident licenses. Director Flynn stated that he assumed the Deer-A licenses would be replaced by the 6,000 B-11 licenses. Director Flynn stated it was an assumption, but it was not actually what was being accomplished.

Senator Yellowtail asked what the difference was between the B-7 (Out-of-State Deer-A) and the Proposed B-11 license. Director Flynn explained that the basis concept was similar but the designation was different. The B-7 nonresident license is for duck deer only, and the B-11 is for buck deer, fishing, and for bird hunting.

Senator Yellowtail asked Director Flynn whether or not the Commission would reduce the number of B-7 licenses by a corresponding number of new B-11 licenses. Director Flynn stated that he assumes the Commission would choose one category or the other category. Senator Yellowtail suggested that the B-7 licenses be converted to the B-11 license and that the price would be increased from $100 to $175. Senator Yellowtail suggested that section two be eliminated from the bill and made the recommendation that all the licenses would be distributed on a drawing basis only. Senator Yellowtail stated the B-11 licenses should be eliminated.

The committee rejected Senator Severson's motion of accepting the 6,000 additional licenses for the nonresident hunter. The effects of Senator Yellowtail's suggestions, according to Senator Jergeson would be a random drawing in February and the successful applicants' names and addresses would be made available to anyone who wished to market services within a week. This method would serve the purpose of the Guides and Outfitters because the clients who were already booked would be included in the drawing. A certain percentage of the original clients would be successful, but the remainder of the possible booking spaces could be filled by the name of other successful applicants. The names of the complete list of successful applicants would be released within a week after the drawing.

The land-owner outfitter, after filling their personal quota, could solicit business from the list of successful applicants and therefore could probably fill any quota they want to fill.

Senator Severson stated that the Outfitters and Guides would like to reject the entire bill at this time, since the 6,000 B-11 licenses have been eliminated. Senator Yellowtail noted that the B-11 licenses are still negotiable because up until this time, the amendment being addressed was amendment number six.

Senator Yellowtail moved amendment number six with the discussed corrections. The amendment would make the license period begin on the first Tuesday in January and end on the first Tuesday in February. Senator Yellowtail especially noted that the language applies to B-10 and B-11 licenses; a significant change. Deer-A, nonresident licenses would be available at the same time as the big combination licenses are available. Senator Yellowtail decribed this method to be a biological wash because the original reason the deer licenses were issued in June was for biological management reasons. The number of nonresident B licenses would probably be adjusted downwards to accommodate the new number of B-11 licenses.

Senator Yellowtail stated that the new B-11 licenses that will replace the B-10 licenses creates what is considered to be new competition or the new burden of additional hunters in Western Montana who will be hunting elk. The concern expressed by Eastern Montanans concerning the 6,000 nonresident hunters still exists.

Senator Yellowtail addressed the set aside problem. The Outfitters must realize that the set aside programs will cause the same problems as occurred this season, and a drawing situation will be inevitable. The set aside program limits access to the entire number of licenses. The Outfitters would be limited to a 6,500 figure, rather than being limited to the 17,000 figure.

Mr. Curtiss was allowed to address the proposed amendment. Mr. Curtiss stated that the amendment completly changes the intent of HB 535. The bill should either be accepted or rejected. The purpose of the bill is to establish set aside programs. Mr. Curtiss questioned the title of the bill. Senator Smith stated that if the title is questioned on the floor, a rule committee judgment would then be made. Mr. Curtiss stated that the action taken on HB 535 changed the intent of the bill into what HB 104 intended to do, but the HB 104 had been killed in House Committee hearing.

The question was called. Senator Yellowtail moved the committee to recommend a BE CONCURRED IN on amendment 6 to HB 535. The motion passed with five yes votes.

Senator Severson proposed that the committee discontinue the hearing, since a decision is not possible at this time concerning the issues proposed by HB 535. Senator Severson suggested that the legislation be reconsidered in the 1989 Legislative Session.

In order to consider the number of B-11 licenses, Senator Yellowtail moved amendment 5. The subject is vital in the total consideration of the bill. Senator Jergeson stated that amendment 2 must be considered regarding the title of the bill. Senator Yellowtail explained that the amendment would allow the Fish and Game Commission to use discretion in dealing with the B-11 licenses numbers. The amendment provides for public hearings, and that the maximum number offered in the B-11 license category would be set at 3,000.

Senator Bengtson asked if the amendment established up to 3,000 new licenses. Yes, according to Senator Yellowtail. The hunters from out-of-state had access to the Deer-A licenses after June 1st. Director Flynn stated the Commission does not take action unless there is a public hearing. The law states that the Commission designates 17,000 nonresident licenses every year. The proposal is that the Commission offers 3,000 licenses. Then, due to biological reasons, adjustments can be made concerning Deer-A and Deer-B tags at a meeting held by the Commission. The issue is the number of licenses: 3,000 or 6,000. Director Flynn stated that if the committee agrees to accept the 3,000 figure, the committee will be dealing with a figure that has proven to be the average number of licenses over the past four years.

Senator Bengtson asked what limitations were put on nonresident hunters in regards to the number of licenses that could be obtained. Director Flynn stated the nonresidents may submit two application. The categories are the B-10 and the B-11 licenses. Senator Yellowtail explained that until 1985, the Outfitters and Guides drew with the other hunters in the nonresident pool that numbered 17,000 licenses. In 1985, the Outfitters and Guides were successful in cornering over 7,000 of the licenses: B-10 category. A set aside program for 5,600 licenses was set up in 1986, and the Outfitters and Guides were hurt in the drawing because they were limited to the 5,600 figure. Senator Yellowtail stated that the rationale of the proposed package is to allow every applicant to participate in the drawing. The Outfitters will be able to obtain clients from the general "pot" of people successful in the drawing. The program is set up early enough so the process is complete

by the first Tuesday in February. Then the Outfitters can agressively advertize to fill the bookings or to add to the bookings previously obtained. Senator Severson asked to change his vote to no on the previous amendment. Senator Severson stated that the amendment 1 will have to be changed because the number of B-10 licenses is not revised on the nonresident licenses. The effective date will be October 1, 1987. Director Flynn stated that the department has never addressed individual outfitting problems, but the industry is being put to a greater risk without the set aside program. The set aside process, if accompanied by a drawing, offers a certain number of licenses for the industry. The "luck of the draw" would provide a volatile success situation. Director Flynn expressed concern that a "floor" must be established to provide the Outfitters with an optomistic chance that they would draw a high success percentage rate.

Senator Jergeson said the set aside program can be considered a "floor" or be considered a "ceiling". Director Flynn stated that the state assumed responsibility for the industry when the set aside program started. The Outfitter and Guide industry is a government regulated industry. Senator Smith stated that the general public or the sportsmen of Montana would not approve a figure over 17,000. Senator Jergeson moved the appropriate language be altered to have the title conform with the bill. Senator Jergeson moved the committee to recommend a BE CONCURRED IN AS AMENDED. The motion passed unanimously.

ADJOURNMENT: There being no further business to come before the committee, Chairman Ed Smith adjourned the meeting at 10:47 P.M.

Ed Smith

SENATOR ED SMITH, Chairman

COMMITTEE ON Senate Fish & Game DATE March 26, 1987

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Eugene F Lee	Outfitters	HB 406		X
Smoke Elser	M.O.G.A.	406	X	
Jim Bender	Walleyes Unlimited	730	X	
Roland Cheek	MOGA	406	X	
Robt VanderVere	SELF	406	X	
Patti Curtis	Outfitter	406	X	
Ralph Holman	outfitter-Councilmember	406		X
Robert L. McNeill	MOGA	406	X	
Gary W. Bramble	MOGA	406	X	
Tate Rittel	MOGA	406	X	
Jane Cheek	MOGA	406	X	
Roy Keefer	MOGA	406	X	
Jack Davis	MOGA	406	X	
Jack Rich	Outfitter	406	X	
C. B. Rich	Outfitter	406	X	
JERRY STRONG	OUTFITTER	406	X	
Monte Schauer	Outfitter	406	X	
Bill Myers	Montana Outdoor Assn	406		X
Keith Rush	Lake View Ranch	406	X	

(Please leave prepared statement with Secretary)

DATE March 26, 1987

COMMITTEE ON

VISITORS' REGISTER

NAME	Address: REPRESENTING	BILL #	Check One Support	Check One Oppose
[illegible]	[illegible]	406 [illegible]	✓	
John Rose	Elkhorn Outfitters		✓	
MIKE PARSONS	CROW CREEK OUTFITTERS		✓	
[illegible]	[illegible]		✓	
Audie Anderson	Kamshorn Outfitters	535	✓	
J.D. Lawson	Self	✓	✓	
R. Kreps	U.S. Forest Service	406		
Sid Betts	Self	406		
DOUG STEWART	SELF	406		
Gary W. [illegible]	MOGA	406	✓	
[illegible]	[illegible]	406	✓	
[illegible]	[illegible]	406	✓	
[illegible]	White Tail Ranch	535-406	✓	
[illegible]	[illegible]	535-406	✓	
[illegible]	[illegible]	406	✓	
Dave [illegible]	[illegible] Lands	535 406	✓	
[illegible]	[illegible] Lands	535/406	✓	
[illegible]	Self	406		
[illegible]	Self	535	✓	
[illegible]	Self	—		
TY THROOP	OUTFITTER SELF	406 535	COMMENTS	✓
[illegible]				
Al Vande [illegible]	Manhattan Chamber of Com			

(Please leave prepared statement with Secretary)

DATE March 26, 1987

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Shane Curtiss	Outfiters and guides assn	535	✓	
Bill Carlos	Big Sky Hawking Club	530		
KEN POWELL	WINGS TO FREEDOM BIG SKY HAWKING CLUB	465	✓	
Jeff McPartlin	Wings TO FREEDOM BIG SKY HAWKING CLUB	465	✓	
Anne McPartlin	Wings to Freedom Big Sky Hawking Club	465	✓	
La Monte J. Johnson	Land Owner	535	✓	
Edwin L Johnson	Outfitter	406	✓	
Keith Rush	Outfitter & Employer	535	✓	
Jim Kembel	Business Regulation Div DOC	406	Questions	
~~Anne McPartlin~~				
JERRY SPRONG	OUTFITTER	406	✓	
Rep Ray Brandewie	HD 49	406		✓
Eileen Grady	Guest			

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE -- FISH AND GAME

DATE: March 26, 1987 BILL NO. HB 530 TIME: _____

NAME:	YES	NO
Senator Ed Smith, Chairman	X	
SENATOR WM. YELLOWTAIL		X
Senator John Anderson	X	
Senator Judy Jacobson		X
Senator Elmer Severson	X	
Senator Greg Jergeson		X
Senator Al Bishop	X	
Senator Esther Bengtson		X
	4	4

Mary Florence Root
Secretary

Senator Ed Smith
Chairman

MOTION: Jensen's motion: BE concurred IN

Amendments to HB 152,

3rd reading copy

1. Page 2, lines 1 and 2.

Following: "request"

Strike: remainder of line 1 through "approved on line 2

Insert: ". The director may disapprove a request only if he finds it to be inconsistent with this section. If the director disapproves a request, he shall return it, with an explanation detailing the reasons for the disapproval, to the appropriate county treasurer for correction. If the director approves a request, he"

2. Page 2, lines 12 and 13.

Following: "~~fund~~"

Strike: remainder of lines 12 and 13

Insert: "acquired and managed for the purposes of Title 23, chapter 1."

SENATE FISH AND GAME
EXHIBIT NO. 1
DATE March 26, 1987
BILL NO. HB 530

HB 530
March 26, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

The department does not support the sale of captive-reared raptors. In 1983 the legislature allowed the captive breeding of raptors. The department supported that legislation, but indicated we had concerns regarding the potential for future requests to sell the progeny. That time has come, and we must express our opposition.

Our position on this subject stems from our general concern with Montana's wildlife being taken from the wild for breeding purposes and the progeny sold. We have opposed this activity for game farms, bird farms and fur farms.

We would not recommend this bill for approval.

SENATE FISH AND GAME
EXHIBIT NO. 2
DATE March 26, 1987
BILL NO. HB 530

Montana

Audubon Legislative Fund

WHY WE OPPOSE HB 530:

1. This legislation allows for commercialization of a portion of wildlife: raptors.

   -currently game farms are not allowed to get game out of the wild to use as commercial stock.

   -currently fur farms are not allowed to get furbearers out of the wild to use as commercial stock.

   -the state has already decided that commercialization of wildlife is improper in these other instances. Why should raptors be an exception? Currently falconers are allowed to take birds from the wild. Those wild birds could not be sold. The progeny of those birds could be sold. Falconers are not willing to give up their right to take birds from the wild but they are interested in commercializing. We feel that they should have one privilege or the other but not both.

2. One of the species falconers want to commercialize is on the state and federal endangered species list: the peregrine falcon.

   -there are 2 known nests of peregrines in Montana (6 hack sites). These birds should not have a price on their head until they are more common in the state.

   -A ban on commerce is important to protect endangered species. Peregrines can be sold for $2000 in the U.S. and $10,000 overseas. Such prices make it tempting to take birds from the wild - a pressure peregrines cannot withstand.

   -Currently falconers in Montana can breed peregrines and donate them to peregrine recovery programs. We feel that people who could sell these birds would not be likely to donate them to recovery programs.

   -Operation Falcon, an undercover sting operation, revealed that there are people who will illegally deal in peregrines as well as other raptors. 75 people have been convicted so far from this sting. Two Canadian breeders took over 50 peregrines from the wild between 1982 and 1984.

   -Until peregrines are taken off the endangered species list, they should not be sold commercially.

3. Falconry is a hobby. Why should falconers be expected to be reimbursed for their hobby? They have chosen this hobby and it involves a privilege of keeping wild birds in captivity. We do not feel that reimburing falconers by allowing them to sell wild birds is appropriate - it's their choice of hobbies.

4. The Department of Fish, Wildlife & Parks is given the task of monitoring falconry and its commercialization but there is no money coming from falconers to allow DFWP to enforce state law. The fees falconry gives to DFWP don't even pay for current licensing of birds. No money is available for inspection of facilities or training of game wardens in all that they should know about these birds.

SENATE FISH AND GAME
EXHIBIT NO. 2
DATE March 26, 1987
BILL NO. HB 530

Amendments offered on HB 530

MT Audubon Legislative Fund

1. Page 2, Line 6
   Following: "sale"
   Strike: "Montana"

2. Page 3, Line 1
   Following: "projects"
   Insert: ", except that the department may not permit the sale of progeny of peregrine falcons other than to an agency of the state or federal government for release to the wild as part of a peregrine recovery program."

3. Page 2, Line 15
   Following: "purposes"
   Insert: "or for the sale of progeny of raptors taken and held for captive breeding purposes"

4. Page 2, Line 23
   Following: "(4)"
   Insert: "The fee for a permit to sell progeny of raptors is $50 per year.
   (5)"

SENATE FISH AND GAME
EXHIBIT NO.
DATE
BILL NO.

FACT SHEET FOR PROPOSED CHANGES TO:
LAWS GOVERNING CAPTIVE PROPOGATION AND FALCONRY
(HOUSE BILL 530)

Mr. John Lobb

HOUSE BILL 530

This bill is a request on behalf of a few individuals who are involved in an activity which is beneficial to themselves (falconers) and the state; to bring a state law into full compliance with a federal law in such a manner to allow them some way to regain the outlay of expenses incurred in this activity.

The Federal Propagation Regulations

On July 8, 1983, the Department of the Interior published final rules entitled: Implementation of the Endangered Species Act Exemption for Certain Raptors; Raptor Propagation Permits; Federal Falconry Standards, establishing standards and procedures for engaging in the propagation of raptors, which rules enable licensed raptor propagators and qualified falconers to purchase, sell or barter captive bred raptors. All raptors eligible for sale must be identified by means of a tamperproof seamless leg marker. These regulations are designed to "encourage captive productions of raptors for conservation, recreation, scientific, and breeding purposes"; to increase genetic diversity in captive populations"; and to "alleviate some of the human pressures on wild raptor populations".

Present Supportors of Federal Sales Regulations

20 States have now adopted a sales regulation, with several others in the process of doing so.

States already with Sales Regulations:

Colorado	Kentucky	Minnesota	Oklahoma
Georgia	Louisiana	New Mexico	Oregon
Idaho	Maryland	Nebraska	Pennsylvania
Iowa	Massachusetts	Nevada	Utah
Missouri	Wyoming	Virginia	Washington

Within the last six months, the organization to which all Game and

Fish Departments belong, Montana included, the International Association of Fish and Wildlife Agencies, wrote and distributed a position supporting commercialization of captive-bred raptors. To date the response of the states and organizations involved have been very positive. The Montana Falconers, along with the Federal Government, surrounding states, and the Association of Game and Fish Agencies are convinced that this is a positive measure.

The Positive Effects of Sale of Raptors

Statistics from 1983 through 1986 show that the sales regulations have encouraged private raptor breeders to increase their contributions of raptors for conservation, scientific, and breeding purposes, as well as recreational (falconry) purposes.

Tables

YEAR	# OF PRIVATE PROPAGATORS	PEREGRINE FALCONS HELD FOR BREEDING	PROGENY PRODUCED	DONATED TO CONSERVATION
1983	43	129	67	----------
1984	63	167	84	26
1985	173	325	85	26
1986	229	N/A	136	46

TOTAL NORTH AMERICAN CONTRIBUTIONS FOR 1986

Location	Birds released - private	P-fund
Rocky Mts.	0	59
East	15	74
California	8	41
Mid-west	48	0
Totals:	71	174
Percent	29%	71%

What Measures Have been Taken to protect the Wild Raptors From Sale?

Under the federal regulations all raptor propagators must be licensed by the State and Federal Government. As part of the licensing requirement, reports must be made to State and Federal authorities within 5 days after a captive falcon lays an egg. Inspections, and extensive record-keeping are also a part of the licensing requirements. If a falcon is produced which ultimately will be sold, under federal law that bird must be marked with a permenent seamless (non-removeable) metal band which must be slipped over the falcon's foot during a specific time period while the chick is still young. With the notification of egg laying and the known length

of incubation for raptor eggs, inspections, etc., it is very difficult to take a wild bird and claim that it was produced in captivity.

According to C.R. Bavin, Chief, Div. of Law Enforcement; no violations using this new seamless band have occurred.

The final protection involves a paper presented to the International Conference on the Peregrine Falcon, on November, 1985 by J.L. Longmire and titled "Identification and Development of Breeding Population-Specific DNA Polymorphisms within the Genome of Falco Peregrinius". In lay terms, this paper relates the development of a genetic "paternity test" which can indicate if a bird is the offspring of a given pair of adult. With such a test we have the ability to detect any attempts to violate the law.

HB-530 is Not Privatization of a Wildlife Source

There is one point which removes the privatization argument completly. Raptors ("and parts thereof") are currently controlled and owned by the federal government under the mandate of the Migratory Bird Treaty...totally unlike state controlled elk, deer, bobcats, etc. The state is completely removed from any "ownership" debate. The feds own and control the adult (parent) birds, the eggs, and the offspring whether they are sold or not. They even own and control the feathers and tell us what we can do with them as they are moulted. These are tightly regulated animals under pages of regulation, legislation, and federal treaty. It is much easier to get a wild whitetail or even grizzly bear. This is how it should be. Falconers wrote most of these regulations and want them continued. Not until the Migratory Bird treaty is renegoiated can the concept of "privatization" be debated...certainly it is not an issue here with these birds at this time.

MONTANA FISH AND GAME
EXHIBIT NO. 4
DATE 3-26-87
BILL NO. HB406

HB 406
March 26, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

HB 406 will change the name of the Montana Outfitters' Council to the Board of Outfitters, and transfer that board to the Department of Commerce, along with the licensing authority for outfitters and guides. This transfer of authority from the Department of Fish, Wildlife & Parks is a move whose time has come. It is a move which has been imminent for sometime.

The Department of Fish, Wildlife & Parks and the Montana Outfitters and Guides have historically worked together to develop rules and procedures which upgraded and professionalized the outfitting industry.

This historic growth has been one of increasing activity in numbers of outfitters and their clients. In 1904, Montana licensed 14 guides and sold 65 nonresident big game licenses. In 1955, 173 outfitters worked in the state with 2,180 nonresident big game licenses sold. In 1985, 17,000 nonresident big game licenses were sold and there were 556 licensed outfitters. We have continued to see an increased number of outfitters and guides in 1986 and 1987.

This growth parallels an increased interest in outdoor recreation by the American public. This interest, coupled with Montana's premier recreational opportunities, has increased the demand for outfitter services in various capacities such as big game hunting, float fishing and white-water rafting.

Along with this growth, the needs of the industry for standards, insurance and other facets of the industry have developed. With the current structure, it is a growing responsibility for this agency to attempt to address at least some of these needs.

It then becomes questionable as to how much time and effort we, as a fish, wildlife and outdoor recreation agency, ought to be spending on the regulation of a viable and substantial occupation such as the outfitting and guide industry.

It is appropriate that an Outfitter Board administer all functions of the state's outfitting act and thus regulate themselves as do other occupations and professions in Montana. The time has come for the outfitting industry in Montana to assume its proper position, along with other professions and occupations, and to have greater control over the direction of its own destiny.

We recommend approval of this bill.

SENATE FISH AND GAME
EXHIBIT NO. 5
DATE 3-26-87
BILL HB 465

HB 465
March 26, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

Montana statutes currently prohibit the capture of peregrine falcons, osprey, bald eagles and golden eagles for the practice of falconry.

Unlike the other three restricted species, golden eagles are plentiful throughout their North American range, and occur in mountainous regions across the entire northern hemisphere.

Federal codes allow only the most advanced class of falconers to possess golden eagles. Under these federal regulations, only eagles captured for control of depredation are allowed for falconry, and eagles can only be transferred or released with the written approval of the regional director of the U.S. Fish and Wildlife Service.

Montana has an area that meets the federal requirements for capture of depredating golden eagles.

This bill should have no impact on the golden eagle resource in Montana or the United States, and would allow Montana falconers to use golden eagles in their sport.

The department supports passage of HB 465.

Mr. John Tubbs

FACT SHEET FOR PROPOSED CHANGES TO:

LAWS GOVERNING CAPTIVE PROPOGATION AND FALCONRY

(HOUSE BILL 530)

SENATE FISH AND GAME
EXHIBIT
DATE
BILL

HOUSE BILL 530

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Mr John Tubbs

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Mr John Fabbe

Dear Sen. Smith,

We feel any amendments to HB530 would cause the death of this bill at this time. We hope that you will see fit to pass it intact as is. Uniformity is important with our surrounding states. + the other states which already have adopted the Fed. Regulations

Thank you
Skip Tubbs
representing
MFA

HOUSE BILL NO. 465
PROPOSED LEGISLATION TO PERMIT THE CAPTURE AND USE OF GOLDEN EAGLES IN THE STATE OF MONTANA FOR THE ART OF FALCONRY

UNDER PRESENT MONTANA FALCONRY LAW CHAPTER 5--PROTECTION OF CERTAIN WILD BIRDS--SALE OF CONFISCATED BIRDS AND ANIMALS, PART 26-501.4 STATES AS FOLLOWS: "THE PEREGRINE FALCON (Falco peregrinus), BALD EAGLE (Haliaetus leucocephalus), GOLDEN EAGLE (Aquila chrysaetos) AND OSPREY (Pandion haliaetus) MAY NOT BE CAPTURED IN THIS STATE FOR THE SPORT OF FALCONRY.

HOUSE BILL NO. 465 WOULD DELETE THE GOLDEN EAGLE FROM THE PROVISIONS OF 26-501.4. AT THE TIME WHEN 26-501.4 BECAME A PART OF MONTANA FALCONRY LAW THE FEDERAL GOVERNMENT HAD ALREADY PROHIBITED THE REMOVAL OF GOLDEN EAGLES FROM THE WILD FOR USE IN FALCONRY. FURTHERMORE, THE U.S. FISH AND WILDLIFE SERVICE PROHIBITED THE REMOVAL FROM THE WILD FOR USE IN FALCONRY THE ENDANGERED BALD EAGLE, THE ENDANGERED SUB SPECIES OF PEREGRINE FALCON KNOWN AS THE ANATUM PEREGRINE FALCON AND THE OSPREY, WHICH FEEDS PREDOMINATELY UPON FISH AND HAS NO HISTORICAL USE IN FALCONRY IN THE UNITED STATES. AS MONTANA LAW COULD BE MORE RESTRICTIVE BUT NOT LESS RESTRICTIVE THAN THE EXISTING FEDERAL LAW THESE FOUR SPECIES: THE BALD EAGLE, GOLDEN EAGLE, PEREGRINE FALCON AND OSPREY WERE PLACED UNDER THE PROVISIONS OF 26-501.4 WHICH PLACED FEDERAL AND MONTANA STATE LAW IN TOTAL AGREEMENT.

TODAY, FEDERAL LAW CONTINUES TO PREVENT THE REMOVAL FROM THE WILD FOR USE IN FALCONRY THE ENDANGERED ANATUM PEREGRINE FALCON, BALD EAGLE AND OSPREY. HOWEVER, REVISED FEDERAL LAWS AND REGULATIONS (REVISED JANUARY 6, 1984) PUBLISHED IN 50 CFR 22.24 NOW MAKE IT TOTALLY LEGAL TO REMOVE GOLDEN EAGLES FROM THE WILD FOR USE IN FALCONRY. CERTAINLY, APPLICANTS REQUESTING A PERMIT TO ACQUIRE A GOLDEN EAGLE FOR FALCONRY MUST MEET CERTAIN STRINGENT CRITERIA FOR THE ACQUISITION, TRANSPORT AND HOUSING OF THE GOLDEN EAGLE. HOWEVER, AS OUTLINED IN 50 CFR 22.24 THESE REVISED FEDERAL REGULATIONS DO PERMIT THE LEGAL TAKE FROM THE WILD AND USE OF GOLDEN EAGLES IN FALCONRY.

FOR MONTANA LAW TO AGAIN BE IN AGREEMENT WITH FEDERAL LAW AND ALLOW THE SAME PRIVELEGE TO FALCONERS AS THE REVISED FEDERAL LAW NOW DOES, I WOULD RESPECTFULLY REQUEST THAT THE GOLDEN EAGLE BE DELETED FROM THE PROVISIONS OF 26-501.4. BY THIS ONE, SIMPLE STEP MONTANA LAW AND FEDERAL LAW WOULD ONCE MORE BECOME CONSISTENT.

FURTHER ON UNDER MONTANA FALCONRY LAW CHAPTER 5, SECTION 26-501.17 STATES THE FOLLOWING: "PREDATORY HAWKS AND OWLS DESTROYING LIVESTOCK OR POULTRY MAY BE KILLED AT ANY TIME BY LIVESTOCK OR POULTRY OWNERS. EAGLES MAY BE KILLED IN COMPLIANCE WITH FEDERAL LAW AND REGULATION." THE FEDERAL GOVERNMENT UNDER 50 CFR 22.23 DOES PERMIT FOR THE TAKING OF EAGLES, BOTH BALD AND GOLDEN EAGLES, FOR DEPREDATION CONTROL PURPOSES. UNDER PRESENT MONTANA AND FEDERAL LAW, AND UNDER CERTAIN CIRCUMSTANCES

IT WOULD BE ABSOLUTELY LEGAL FOR A PERSON WITH THE PROPER PERMIT TO CAPTURE OR DESTROY WITH A FIREARM, A GOLDEN EAGLE IN MONTANA. HOWEVER, EVEN THOUGH THE REVISED FEDERAL REGULATIONS COULD VERY POSSIBLY ALLOW A PROPERLY LICENSED FALCONER TO CAPTURE AND USE THAT VERY SAME GOLDEN EAGLE IN FALCONRY WHICH IS NOW EARMARKED FOR DEATH UNDER A DEPREDATION LICENSE, 26-501.4 PREVENTS THE LEGAL REMOVAL FROM THE WILD OF A GOLDEN EAGLE FOR FALCONRY AS THE LAW NOW STANDS.

IN THE TRUE SENSE OF FAIRNESS AND AS A SOUND CONSERVATION MEASURE, I WOULD ASK THAT THE MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS AND THE STATE'S LAW MAKERS CONSIDER ADOPTION OF THE FEDERAL REGULATIONS WHICH NOW PROVIDE FOR THE CAPTURE AND USE OF GOLDEN EAGLES FOR FALCONRY. I WOULD FURTHER OFFER THAT IF A BEAUTIFUL AND MAGNIFICENT RESOURCE CAN BE LEGALLY ENJOYED AS AN ALTERNATIVE TO BEING LEGALLY DESTROYED THAT CAN NOW BE DONE BY DELETION OF THE GOLDEN EAGLE FROM 26-501.4.

AS A FINAL CONSIDERATION THERE ARE PEOPLE ENGAGED IN THE REHABILITATION OF SICK, INJURED OR OTHERWISE INCAPACITATED BIRDS OF PREY. BOTH THE STATE OF MONTANA AND THE UNITED STATES FISH AND WILDLIFE SERVICE HAVE OFFERED QUALIFIED PERSONS THE PRIVELEGE OF CARING FOR SUCH BIRDS WITH THE ULTIMATE GOAL OF BEING ABLE TO EVENTUALLY RETURN ATLEAST A PORTION OF THESE BIRDS BACK TO THE WILD. WHEN A BIRD OF PREY SUFFERS AN INJURY SUCH AS A WING FRACTURE, AFTER THE BONE MENDS IT IS ABSOLUTELY NECESSARY TO DETERMINE WHETHER OR NOT THAT BONE HAS MENDED PROPERLY TO THE POINT OF ALLOWING THE BIRD TO NOT ONLY FLY WITH A HIGH DEGREE OF NORMALCY, BUT TO RETURN TO A WILD ENVIRONMENT, FLY AND HUNT IN SUCH A FASHION THAT IT HAS ATLEAST A REASONABLE EXPECTATION FOR SURVIVAL. AS THE PRESIDENT OF"WINGS TO FREEDOM", A NON-PROFIT ORGANIZATION ESTABLISHED TO CARE FOR BIRDS OF PREY IN NEED OF REHABILITATING, I OFTEN EMPLOY FALCONRY TECHNIQUES IN THE CARE AND HANDLING OF BIRDS BEING HELD FOR REHABILITATION. UNDER THE PRESENT MONTANA LAW, WHEN I RECEIVE AN INJURED GOLDEN EAGLE ACQUIRED FROM THE WILD HERE IN MONTANA, TO FLY SUCH A BIRD AFTER IT HAS RECOVERED FROM ITS INJURY AT QUARRY TO DETERMINE ITS ABILITY FOR FUTURE SURVIVAL IN THE WILD WOULD BE PROHIBITED. AN INJURED HAWK, EAGLE OR FALCON MAY RECOVER FLYING POWERS TO FLY IN A RELATIVELY STRAIGHT LINE FROM POINT "A" TO POINT "B". THIS SHOULD DEFINITELY NOT BE CONSTRUED AS BEING CAPABLE OF FLYING AT A SWIFT AND FLEEING QUARRY WHICH IS EITHER RUNNING OR FLYING FOR ITS VERY LIFE. YET, IN THE REAL WORLD OF PREY AND PREDATION THAT A PERSON INVOLVED IN REHABILITATION WORK HOPES TO BE ABLE TO RELEASE AS MANY AS POSSIBLE OF THE INJURED BIRDS RECEIVED, LIFE IN THE WILD FOR THAT BIRD CERTAINLY INVOLVES FAR MUCH MORE THAN FLYING FROM POINT "A" TO POINT "B". DEPENDING ON THE SPECIES, THE RAPTOR WILL BE RETURNED TO A WORLD WHERE TWISTING, TURNING, DIVING, STOOPING AND HUNTING...OFTEN CARRIED ON AT HIGH SPEEDS, WILL TEST THE STRENGTH AND ENDURANCE OF THAT BIRD EVERY DAY OF ITS LIFE.

DELETION OF THE GOLDEN EAGLE FROM 26-501.4 WILL FURTHER ALLOW TRUE RAPTOR REHABILITATORS THE OPPORTUNITY TO PROPERLY CONDITION ANY INJURED GOLDEN EAGLES FOR THEIR RETURN TO THE WILD.

FACT SHEET FOR HOUSE BILL 465

HOUSE BILL NO. 465 WOULD DELETE THE GOLDEN EAGLE FROM THE PROVISIONS OF MONTANA FALCONRY LAW, CHAPTER 5, PART 26-501.4. THIS PART PROHIBITS THE TAKING OF BALD EAGLES, GOLDEN EAGLES, PEREGRINE FALCONS AND OSPREYS FROM THE WILD IN MONTANA FOR USE IN FALCONRY. WHEN 26-501.4 BECAME A PART OF MONTANA LAW, THE FEDERAL GOVERNMENT HAD ALREADY PROHIBITED THE REMOVAL FROM THE WILD OF GOLDEN EAGLES FOR USE IN FALCONRY. SO, BY THEN PLACING THE GOLDEN EAGLE UNDER THE PROVISIONS OF 26-501.4, MONTANA LAW AND FEDERAL LAW WERE IN COMPLIANCE WITH EACH OTHER. TODAY, THIS SITUATION HAS CHANGED, AND MONTANA LAW IS NO LONGER IN AGREEMENT WITH FEDERAL LAW IN REGARDS TO THE USE OF GOLDEN EAGLES FOR FALCONRY.

FEDERAL LAWS AND REGULATIONS WERE REVISED ON JANUARY 6, 1984. THESE REVISIONS AS PUBLISHED IN 50 CFR 22.24 NOW MAKE IT TOTALLY LEGAL FOR GOLDEN EAGLES, UNDER CERTAIN CIRCUMSTANCES, TO BE REMOVED FROM THE WILD AND LEGALLY HELD AND USED IN THE ART OF FALCONRY. THE EAGLES THAT WOULD BE ACQUIRED FOR FALCONRY ARE EAGLES DESTINED FOR CAPTURE UNDER FEDERAL OR STATE DEPREDATION PERMITS. TO GRANT FALCONERS THE PRIVELEGE OF USING SOME OF THESE BIRDS ALREADY MARKED FOR DEATH UNDER THE DEPREDATION PERMIT, AND FOR MONTANA LAW TO AGAIN BE IN FULL AGREEMENT WITH THE REVISED FEDERAL LAW ALL THAT IS REQUIRED IS TO SIMPLY DELETE THE GOLDEN EAGLE FROM 26-501.

IT SHOULD BE POINTED OUT THAT THERE ARE TWO TOTALLY DISTINCT SPECIES OF EAGLES THAT RESIDE IN MONTANA. THE FIRST IS THE BALD EAGLE, AN ENDANGERED SPECIES AND NATIONAL EMBLEM OF OUR COUNTRY. IN NO WAY WOULD THE USE OF GOLDEN EAGLES FOR FALCONRY HAVE ANY DETRIMENTAL EFFECT ON BALD EAGLES. THE BALD EAGLE IS PROTECTED UNDER THE FEDERAL ENDANGERED SPECIES ACT, THE FEDERAL MIGRATORY BIRD TREATY ACT AND MONTANA LAW. THE GOLDEN EAGLE IS THE SECOND SPECIES, AND MOST COMMON SPECIES OF EAGLE FOUND IN MONTANA. THIS BIRD IS NOT CLASSIFIED AS AN ENDANGERED SPECIES. THEY ARE A RELATIVEL COMMON BIRD OF PREY IN MONTANA, AND ARE THE SPECIES MOST OFTEN KILLED OR TRAPPED AND RELOCATED UNDER DEPREDATION PERMITS.

UNDER MONTANA FALCONRY LAW, CHAPTER 5, SECTION 26-501.17 STATES: "PREDATORY HAWKS AND OWLS DESTROYING LIVESTOCK OR POULTRY MAY BE KILLED AT ANY TIME BY LIVESTOCK OR POULTRY OWNERS. EAGLES MAY BE KILLED IN COMPLIANCE WITH FEDERAL LAW AND REGULATION."

IN THE STRICTEST SENSE OF FAIRNESS AND AS A WISE CONSERVATION MEASURE, IF MONTANA LAW IS WILLING TO ALLOW WITH COMPLIANCE WHEN IT COMES TO THE DESTRUCTION OF GOLDEN EAGLES, THEN DELETION OF THE GOLDEN EAGLE FROM 26-501.4 WILL GIVE THE OPPORTUNITY FOR SOME EAGLES TO REMAIN ALIVE, AND BE USED FOR FALCONRY, EVEN THOUGH THEY ARE BEING CAPTURED FOR DEPREDATION PURPOSES, AND IF NOT TURNED OVER TO A FALCONER, SUCH A BIRD MIGHT BE KILLED UNDER THE TERMS OF THE DEPREDATION PERMIT.

IT SHOULD BE MENTIONED THAT BY DELETION OF THE GOLDEN EAGLE FROM 26-501.4, FALCONERS WILL NOT AUTOMATICALLY BE ALLOWED TO GO OUT AND CAPTURE A GOLDEN EAGLE. ON THE CONTRARY, SUCH CAPTURE WILL BE CONDUCTED UNDER THE STRICT SUPERVISION OF THE APPROPRIATE FEDERAL AND/OR STATE AGENCIES. FURTHERMORE, AN EXTREMELY RIGID SET OF GUIDELINES OF CRITERIA THAT AN APPLICANT MUST MEET PRIOR TO BEING LICENSED TO OBTAIN A GOLDEN EAGLE CAPTURED UNDER A DEPREDATION PERMIT MUST BE MET BY THE APPLICANT FOR SUCH A PERMIT. ALSO, THE EAGLE WILL BE BANDED WITH A FEDERAL BAND AND MAY NOT BE DISPOSED OF IN ANY MANNER WITHOUT PRIOR APPROVAL FROM THE SPECIAL AGENT IN CHARGE FOR THE UNITED STATES FISH AND WILDLIFE SERVICE. THE PROTECTION AND WELL BEING OF THE EAGLE WILL BE THE SACRED TRUST OF THE LICENSED FALCONER AND OVERSEEN BY THE FEDERAL GOVERNMENT AND THE STATE OF MONTANA. WITH SUCH CONDITIONS SURROUNDING THE ACQUISITION OF A GOLDEN EAGLE, IT SHOULD BE MOST OBVIOUS THAT SUCH BIRDS WILL GO ONLY TO PERSONS WHO HAVE BEEN CAREFULLY AND THOROUGHLY SCREENED AND WHO POSSESS THE KNOWLEDGE, SKILL AND FACILITIES TO PROPERLY CARE FOR THEIR EAGLE.

MONTANA

DEPARTMENT OF

FISH, WILDLIFE AND PARKS

MONTANA OUTFITTER COUNCIL

Re:HB406
March 26,1987

Gene Lee
Hungry Horse

Smoke Elser
Missoula

Duane Neal
Pray

Art Weikum
Augusta

Ralph Holman
McLeod

Ray Shores
Malta

Le Zeller
Miles City

Mr. Ed Smith, Chairman
Senate Fish and Game Committee
State Capital
Helena, MT 59620

Dear Mr. Smith and committee members,

Please note the enclosed information leading up to the opposition of HB 406.

HB 406 was not drawn up or sponsored by the outfitting industry. We all read about it in our local papers when posted for hearing in the House Fish and Game committee 4 days before the hearing. As a result of the short notice, I appeared before the main committee and a sub committee unable to oppose or support this bill without input from our people.

Please read copies of letters sent to Mr Orville Ellison, Chairman of the House Fish and Game committee and the notices mailed to every licensed outfitter. Also note the meeting places throughout the state so that our people could go to any meeting desired. We wanted their input and questions.

The Montana Outfitters Council moved that Spence Trogdon and I (council members) attend every meeting with the same information from the Dept. of Commerce and the Dept. of Fish and Game for their reveiw. HB 406 was read in full at every meeting with its amendments. The average meeting lasted over 4 hours with considerable discussion.

We had 127 sign in with many not signing in. Ballots were distributed with instructions that only currently licensed outfitters being able to vote. We asked for comments besides indicating whether they were for, against or undecided on HB 406. They also signed the ballots.

The official vote was 4 to 1 to kill HB 406. There were 58 voting to kill There were 14 for, 7 undecided and 13 inelgible. The inelgibles were not currently licensed, spouses or guides. No absentee or proxy votes were accepted because it was felt the people needed to know the ramifications before making a choice.

General comments were-The outfitters themselves should have drawn up and sponsored this bill if there was a need or demand to leave Fish and Game. What are the motives behind the Wildlife Federations efforts to move us away from Fish and Game. Outfitters are consistantly dealing with fish and game laws and their enforcement people. It seemed like a natural place to be under. Colorado is the only state with outfitters under the department of business and they have sought to go back under fish and game. Idaho and Alaska have independent boards and all the other western states are under Fish and Game.

Their final comments were that if the Dept of Commerce is good for our industry, the outfitters would like to come up with their own bill at the next session. No other board has 25% of the board being outside people. There are no outfitters seeking to sit on Chiropractor, Beauticians etc boards.

I have been instructed to give you this information and urge that you kill HB 406. This controversial bill is dividing the outfitters.

Sincerely,

Eugene R. Lee, Chairman

MONTANA

DEPARTMENT OF

FISH, WILDLIFE AND PARKS

MONTANA OUTFITTER COUNCIL

Gene Lee
Hungry Horse

Helena, MT 59620
February 9, 1987

Smoke Elser
Missoula

Mr. Orville Ellison, Chairman
House Fish & Game Committee
State Capitol
Helena, MT 59620

Dear Mr. Ellison:

Duane Neal
Pray

The Montana Outfitter Council, elected by the outfitters of Montana for the purpose of representing all licensed Montana outfitters, feels that it is our duty to hold meetings in our seven respective regions for the purpose of explaining the ramifications of HB 406 and obtain a consensus through the democratic process.

Art Weikum
Augusta

Meetings will be held in the regions from February 17-24 to review and discuss this proposal. Outfitters will provide direction to the council delegates to vote for or against HB 406. The council represents six hundred and four (604) Montana outfitters.

Ralph Holman
McLeod

Sincerely,

Eugene P Lee

Eugene P. Lee
Chairman

Ray Shores
Malta

c: Leo Giacometto
Council Members
Jim Flynn

Le Zeller
Miles City

MONTANA

DEPARTMENT OF

FISH, WILDLIFE AND PARKS

MONTANA OUTFITTER COUNCIL

Gene Lee
Hungry Horse

Smoke Elser
Missoula

Duane Neal
Pray

Art Weikum
Augusta

Ralph Holman
McLeod

Ray Shores
Malta

Le Zeller
Miles City

February 10, 1987

Montana Outfitters:

House Bill 406 was introduced by Representative Ed Grady in the Fish and Game Committee to change the name of the Montana Outfitters' Council to the Board of Outfitters; to transfer the council to the Department of Commerce; and to transfer licensing authority for outfitters and guides from the Department of Fish, Wildlife and Parks to the Board of Outfitters.

The first hearing was held Thursday, January 29th. At this meeting it was agreed to allow time for council delegates to meet in their respective districts and review the proposal, explaining the ramifications, other states' boards and costs.

Meetings are scheduled to give you the opportunity to vote for or against and to give your council delegate direction in the legislative process.

These are important meetings. Mr. Gene Lee, Chairman of the council will preside and present information on the proposal. We request your presence and participation at this meeting. (See enclosed schedule for meeting dates.)

Sincerely,

Eugene P Lee

Eugene P. Lee, Chairman
Montana Outfitter Council

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Enclosure

Region 1
Outlaw Inn
Kalispell
Wednesday, 18 Feb. 1987 - 1 p.m.

Region 2
Fish, Wildlife & Parks
3201 Spurgin Rd.
Tuesday, 17 Feb. 1987 - 1 p.m.

Region 3
Holiday Inn
Bozeman
Saturday, 21 Feb. 1987 - 1 p.m.

Region 4
Sheraton Inn
Great Falls
Friday, 20 Feb. 1987 - 1 p.m.

Region 5
Super 8 Motel
Columbus
Tuesday, 24 Feb. 1987 - 1 p.m.

Region 6
Joint Meeting with R-7
(See below)
Monday, 23 Feb. 1987 - 1 p.m.

Region 7
IGA Grocery
Montana 200 - North of Broadus
interchange
Monday, 23 Feb. 1987 - 1 p.m.

March 16, 1987

Senate Fish and Game Committee
Senator Ed Smith, Chairman
State Capitol Building
Helena, Montana 59601

Re: H.B. 406

I am in strong opposition to H.B. 406 for many reasons. To justify my reasons I have attached several exhibits to this presentation which I will refer to as I proceed.

For background information on why we have our present 7 member Outfitter Council, elected by the outfitters in the 7 Fish and Game regions, please refer to Exhibit B. an official copy from Fish and Game records.

In 1967 legislation was introduced by an existing minority outfitter association to establish an Outfitter Board patterned after an adjacent state where the association, consisting of approximately 25 per cent of the outfitters, were in full control of who served on the Outfitter Board. "Control by a minority."

Following the defeat of the above proposed legislation several outfitter organizations were formed. Following several years of arguing Board versus Council, representatives of the six outfitter organizations agreed to poll the outfitters of Montana for their preference.

Because an adjacent state had been promoted as the Utopia for outfitters, I personally made a trip to the Capitol and spent 3 days researching state records. What I found was a disgrace to the industry. The following is listed for information purposes only as to what could and did happen during the existence of a Board controlled by outfitters and not for the purpose of defaming or slandering anyone.

1- The Board,nominated by the association, showed strong favoritism for association members and discrimination against non-association members.

2- The Board, who were supposed to represent all outfitters, displayed only association members brochures and promoted association members as the good outfitters.

3- Built an office building on one Board member's property, at Board cost, then gave title to said Board member.

4- The Board and association approved of a contest to determine which guides could account for largest elk kill. Elk were shot from helacopters and in the field by guideswho did not permit clients to fire a gun and told clients which elk they could tag. Outfitter camps were found that contained untagged and dressed out elk waiting for clients to come in over the weekend to claim and tag the elk. The winner of this contest killed 13 elk. None of these violations had been prosecuted. Much of this testimony was given by Legislators who booked with outfitters to accumilate evidence.

5- Upon receiving legislative authority to allocate operating areas for outfitters the Board gave themselves and some association members choice areas, some which were immediately sold for large sums. Upon sale the Board issued new areas to the sellers.

6- The Board refused to issue an outfitter license as ordered by the Attorney General's office.

7- The Board rebuffed the Governor's request to (1) hold a hearing on an association member and (2) that the Board operate as it was intended.

I found much more documented evidence of abuse of law, refusal to prosecute association members, discrimination and favoritism by an Outfitter Board established for the purpose of policing their own industry. An obvious situation where Outfitter Board members were

very reluctant to prosecute for fear that the next time they might be under the gun. The association did have a highly impressive code of ethics. I emphasize here that a former Chief of Law Enforcement of the referenced state, based on Board activities, made the following statements. "The Board operation was like putting a fox in the hen-house to guard the chickens." "Maybe outfitters and guides could regulate themselves if they were closely watched." Weaknesses were listed as giving autonomous power to persons who have a financial interest in the business and lack of enforcement. If a Board member reviewed a license or a complaint they have to consider what will happen if the next complaint is on one of them. He further stated "regulating the industry is essential.

Upon receiving the results of the letter poll, defined on Exhibit B, which clearly reflect the preference of outfitters, outfitter representatives working with officials of the Department of Fish and Game formulated legislation establishing the Montana Outfitter Council as an independent advisory arm to the Department. The Department were required to appoint a laisson officer to meet with the Council. Later legislation proposed by the Department allocated the Council to the Department and provided for a Department Supervisor of Outfitting. Our current system.

The 1967 attempt to establish an Outfitter Board and its defeat, contrary to a gentlemens agreement to abide by a majority decision, started a 20-year near continious effort by some to establish a Board as you now see in H.B. 406. Some say that the Council are ineffective, that a Board of outfitters should be all powerful. The majority of outfitters, however, like the assurance that the watchful eye of the Department precludes the possibility of favoritism or discriminatory acts by Council members.

I have served on the Council, by re-election, since inception in 1972, several years as Chairman. For many years we have asked the Montana Outfitters Association for their recommendations on how outfitters want the Council to operate. How much authority do outfitters want the Council to have. How can we better serve the industry, etc.. Although we have received an occasional individual recommendation, we have received nothing from the Association based on majority recommendations. The Department and Council members both agree that the Council should have more authority, however, we need input to avoid being called dictatorial.

Following Council recommendations the Director, a professional administrator, with legal advice at his side, acts with discretion to investigate, prosecute or dismiss. This assures a decision based on legal precedent. It further assures that a Council member will not attempt unreasonable acts against a competitor and will recommend reasonable regulations that they themselves must abide by.

The Council are and have been a valuable asset to Fish and Game law enforcement because of the close correlation between Fish and Game laws that provide protection for the wildlife resource of Montana (we would have no resource without those laws) and laws that regulate the outfitter during the utelization of your resource. In my twenty-five plus years of outfitting and guiding and serving on the Council, I have learned well that there are three categories of outfitters. The majority are self disciplined, prudent operators with ethics that equal or exceed the law, most cooperate with law enforcement personnel who rely on those outfitters to keep them informed on illegal activities in the area. We also have some who operate close to the ragged edge of the law and most of the time stay within the law due to the fact that a large number of enforcement personnel are in the field. Even knowing this some cannot resist temptation and get themselves in trouble. A third category have no intention of operating legally and are out for the sole purpose of exploiting your resource for their personal gain. Some were licensed outfitters, Jerry Marjerrison, Tom Brogan, and others who lost their outfitter license as a result and some operate as "just a group of friends under the guise of sportsmen, not as licensed outfitters. Under current law these and other violators are now subject to prosecution, provided

sufficient law enforcement exists. Many of the above will be quick to take advantage of the severely reduced enforcement when Game Wardens are taken out of the picture and this will happen unless the proposed Board can finance duplication of law enforcement now provided by our seventy Game Wardens.

During the past fifteen (15) plus years of working together (Fish and Game law enforcement and Council) many laws and regulations have been implemented, some had to be revised to close loopholes. Cooperation and correlation must continue to assure that effective and impartial regulation is provided. Rather than supporting a move of outfitters and Council Mr. Flynn should be taking bows and complimenting the Fish and Game Law Enforcement Division for the efficient and effective law enforcement they are providing.

We have a unique outfitter law that allocates the Council to the Department of Fish, Wildlife and Parks because we have a unique industry. Check the structure sheet of the Department of Commerce. (Exhibit C) We will be number 73, all of which share legal, office, investigation by four (4) investigators, etc.. Do you see any of the listed Boards that utelize, and that could exploit your wildlife resource in the conduct of business? NO! These are businesses that deal with the public, dependent on public reputation and are under the watchful eye of the local public. They generally purchase and sell a commercial product or sell services that have no connection with your resource. Consider the difference between an outfitter and an optometrist, an electrician or beautician, Licensing of outfitters and guides by the Department of Fish, Wildlife and Parks for the purpose of utelizing the wildlife resources of Montana is as essential as licensing you and I for the privilege to hunt or fish. There is no difference between licensing me to harvest an elk and licensing me to guide someone else to harvest an elk. The two go hand in hand.

We are not a commercial industry in the normal sense of plumbers, nurses and others. We deal with sportsmen from Coast to Coast and potential violators of our Fish and Game laws who are also entitled to fair and impartial treatment. Department personnel have worked with the outfitters Council to substantially reduce fraud, deception, false advertising and other illegal outfitting for 15 years. We have an excellent and effective relationship. Help us keep it.

Compare this to the structure sheet of the Department of Fish, Wildlife and Parks where we have direct access to the Director, (Exhibit D) the Supervisor of Outfitting and legal personnel, where outfitters records are scrutinized for leads that may lead to finding violations. Where all complaints can be immediately and carefully checked for violation of Fish and Game and Outfitter law violations without duplication of the efforts of two Departments, one against the other, each to act at their convenience. Two Departments both to issue license and regulations necessary to the conduct of outfitting and guiding, a duplication of records, paper work and personnel, more enforcement personnel if the Board does its job, a duplication in total, and who pays? The outfitter and guide.

H.B. 406 new section 9, now states that investigation and arrests may be made by various law enforcement personnel, generally Fish and Game. The question is who pays? Sportsmen license fees? Free gratus? The second point is will they enforce a law that belongs to another Department or will they be stepping on another's toes? You may also perform a citizen's arrest; will you? Unless you are on firm legal ground or have legal authority its certainly not advisable as you could become embroiled in costly and time consuming litigation.

Functions of the Council and our relation to the Department were thoroughly investigated by the Legislative Audit Review Committee and the office of Legislative Auditor in 1983. Following this review the Council were highly complimented by both the Auditor's office and the Review Committee for our cooperation, efforts and high qualifications. Continuation of our programs were highly recommended even by the President of Montana Outfitters and Guides Association.

Council members served without reimbursement from 1972 to 1984, Council members have developed fifteen years of experience, some by trial and error, to upgrade a highly respected and viable industry that generates millions of new dollars into the economy of Montana. To insure that those who attempt to exploit the wildlife resource of Montana are prosecuted the industry must remain under regulation of our closely related Department of Fish, Wildlife and Parks. A check of Fish, Wildlife and Parks Department and/or Forest Service records will reflect why some want a move and the reduced enforcement it will bring.

Some outfitters want a Board that will limit, by moritorium, the number of outfitters allowed to do business, some want quaranteed clients, some want tests so stringent that no one can pass. Some would ignore the free enterprise concept.

There has been some critisizm of Supervisor of Outfitting, Bill Maloit, for being too strict on law enforcement, not showing favoritism for outfitters, etc.. I have always found Mr. Maloit to be firm, fair and impartially committed to his duty as a law enforcement agent for which he should be commended. I for one would sleep very secure with the knowledge that the outfitter law was administrated by a Board consisting of seven Bill Maloits whose swarn duty was to protect and perpetuate the wildlife resource of Montana.

It is my understanding that H.B. 406 was introduced on the basis of being an exchange for receiving a set-aside of 8,500 B-10 non-resident licenses via H.B. 535 and it was implied that if outfitters did not go along with H.B. 406 they probably would not get the set-aside. I testified in opposition to H.B. 406 representing only myself because 406 came as a suprise and I did not have time to contact outfitters in my Council region for input. There was little, if any, other opposition for this reason. There was some support from outfitters apparently willing to make the trade.

As soon as possible Council members held meetings to inform outfitters of another Board attempt. Blizzard conditions existed and only limited members could make the hurriedly called meetings as Chairman Gene Lee will report. However ironic, the fact exists that the majority of outfitters are disgusted with the continueing attempts to establish a Board as was exhibited at the meeting held March 24th by Montana Outfitters and Guides Association following over a month of preliminory selling, good weather, and held in conjunction with testimony on H.B. 535, attended by less than 15 per cent of total outfitters. Proof that outfitters are thoroughly disgusted.

Much of the support for H.B. 406 aquired by M.O.G.A.'s Vice-President was gained as a result of ridiculous statements made in an unsigned letter mailed from Butte, (see Exhibit E) and his statement that the Director of the Department of Fish, Wildlife and Parks had emphatically stated that the Department will continue to enforce the outfitter law if outfitters are moved to the Department of Commerce. (see exhibit F item 12) If this is in fact true I propose that H.B. 406 page 12 line 13 be ammended by deleting the word may and inserting the word shall. I do, however, question the validity of new section 9 based on Montana Statute 87-1-506 which stipulates the duty and authority of Montana Game Wardens and based on Montana Statute 87-1-401 which stipulates the Power and duty of the Director. If my interpretation of these Statutes is correct there is no legal authority for new section 9. In fact these Statutes preclude this act. I have asked some Department law enforcement personnel if they would enforce and received a negative reply.

H.B. 406 was formulated without consideration for problems caused for our 600 outfitters, it has been ammended to death, in futile attempt to improve it. H.B. 406 is not an outfitter proposed bill, H.B. 406 is splitting the outfitting industry and regressing our industry twenty years. I first propose and ask that H.B. 406 be killed. If it cannot be killed I propose ammendments that will make enforcement by the Department of Fish, Wildlife and Parks mandatory at their cost.

I further propose that H.B. 406 be ammended to provide for seven outfitters on the Board to coincide with the seven Fish and Game Law Enforcement Regions as follows:
page 1 line 21 delete 7, insert 9
page 2 line 21 delete 5, insert 7
page 2 line 25 delete 5, insert 7
page 12 line 13 delete may, insert shall
check validity of new section 9

These ammendments will make the bill a little more palatable, however, I repeat; please kill H.B. 406 and let outfitters first decide by majority, then write their own legislation. Claims that an outfitter Utopia will result have been floating around like snowflakes. There has been no documentation of where 406 will take us because no one will document. Don't let us be pigion-holed by those whose only interest is to reduce enforcement. Thank you for your consideration.

FISH AND GAME PROPOSAL vs. BOARD PROPOSAL

"Exhibit B"

At a joint meeting of members of the M.O. & D. R. A., the Wilderness Guides Assn., the Bitterroot Outfitters Assn., and approximately 30 independent Outfitters held in Helena on February 14, 1970, it was agreed that a copy of the M.O. & D.R.A., proposal (a revision of S.B264), and a copy of the Fish and Game proposal were to be mailed to all Montana Outfitters requesting that each outfitter write a letter stating his preference and mail same to Helena to be opened at a future committee meeting. This was done.

In answer to the above request, the Committee received, opened and read, one hundred and twenty letters with results as follows.

108 were opposed to creation of an outfitters board and in favor of leaving outfitters under the jurisdiction of the Fish and Game Department. (Some letters contained two signatures.)

6 were in favor of an outfitters board and opposed to leaving outfitters with the Fish and Game Department.

4 were in favor of an outfitters board providing several changes were made in the Board proposal.

2 took no stand.

A total of 120 letters were written.

For your information, the names of outfitters who wrote the above letters are segregated below. All of the original letters are still on file and are available for checking.

OPPOSED TO AN OUTFITTERS BOARD:

Charles Alkire, Livingston
Laurence E. Sullivan, Salmon, Id.
Frank S. Vanderhule, Anaconda
Kenneth H. Gleason, Choteau
Frank Standish, Gardiner
Chuck Bornhauser, Melrose
Duane B. Hooper, Big Timber
Harry Lederer, Fairfield
Marvin Carlson, St. Regis
Lyman R. Tait, Teigen
Bob R. Teague, White Sulphur
Paul Harbaugh, Jordan
Larry Todd, Emigrant
Dick McGuire, Ennis
James Todd, Emigrant
George H. Athas, Jardine
Willis L. Kent, Great Falls
Roger Engle, Big Timber
Max Chase, Emigrant
Tony Gulli, Alberton
George R. Shawver, Brussett
Roger Lonepre, Alberton
Mortimer Bacon, Alberton
Thomas J. Fletcher, Greenough
Theo Thompson, Big Timber
Keith Graybeal, Hall,
Granville Skillman, Livingston
Don Todd, Reed Point
Walter Martinz, Big Timber
Jerry Olson, Wilsall
Reuben Molstad, Ekalaka
George P. Johnke, Augusta
Norris G. Bacon, Martin City
Dean O'Leary, Wise River
Don Yerian, Hamilton
Eugene Hungerford, Whitehall
Alvin Pierce, Emigrant

Charles Moseman, Shawmut
Milton Hopkins, Bigfork
C. D. "Spike" Jensen, Columbus
Dan B. Wood, McLeod
Wm. A. Tyson, Gardiner
Wm. Sommers, Cooke City
George O. Smith, Melrose
Heller & Bennett, Stevensville
Dwane Forder, Highwood
Charles Abbott, Miles City
Dan I. Ekstrom, Clinton
Martin J. Parks, Gardiner
A. O. Askin, Livingston
Riley Wilson, Harrison
George E. Radel, Livingston
Anton E. Schoonen, Whitehall
Hugh E. Nugent, Livingston
Lyle P. O'Conner, Jordan
Tom Flanagan, Absarokee
Gill Aller, McLeod
S. C. Spillum, Circle
Paul Christensen, Livingston
Gerald L. Kezar, Havre
Monta V. Neely, Cameron
Arnold H. George, Jardine
Ralph D. Hughes, Jardine
Ed Skillman, Livingston
M. E. Lloyd, Otter
Rich Christy, Bonner
R. M. Holman, Big Timber
Gerry Halter, Big Sandy
Wm. (Bud) Smith, Ronan
Ken Graber, Bozeman
Ray L. Reed, Ennis
Ralph D. Wyman, ~~Bozeman~~ Billings
Albert Newman, Ingomar
Leah R. Cole, Jordan

Vernon Johnson, Jardine
Norman Strung, Bozeman
Leslie J. Craft, Jardine
Duane Neal, Pray
"Spike" Van Cleve, Big Timber
Keith Rush, Butte
Vern McMannis, Dillon
George Figgens, Laurel
Gary Kennedy, Belgrade
Burr L. Lively, Melrose
Art Hayes Jr., Birney
Bill Dygert, Billings
Jack McGowan, Ennis
Eugene Sullivan, Big Fork
Bill Othersall, Missoula
Bill Johnston, Missoula
Lelano H. Page, Sr., Phillipsberg
Fred Norris, Haugan
George Woolsey, Big Arm
Ruth Woolsey, Big Arm
Carl Schauss, Big Arm
Lonnie Goss, Conner
Martin Barnes, Jordan
Lester C. Baldwin, Gal. Gateway
Larry D. Maxwell, Darby
Fred Rwuing, Darby
Lloyd Wortman, Ennis
William Darlington, Ovando
T. R. Hess, Phillipsburg
George Carter, Phillipsburg
Henry A. Mercer, Monida
Kenneth Coulter, Brusett
James H. Stands, Pray
Wayne Fuller, Livingston
N. L. McDonough, Wolf Creek
Tom C. Villenenue, Anaconda
LeRoy Lucke, Big Arm

IN FAVOR OF OUTFITTERS BOARD:

Peter T. Combs, Ennis
Glen Childers, Brussett

John Buker, Victor
Ray Higgens, Darby

Erv Malnarich, Hamilton
W. A. Cunningham, Billings

IN FAVOR OF OUTFITTERS BOARD PROVIDING CHANGES WERE MADE IN PROPOSAL:

Rich Higgens, Darby
Fred Pack, Gallatin Gateway
Sam Smeding, Gal. Gateway
Herb Stevens, Augusta

NO STAND:

Martin R. Capps, Salmon, Idaho
Bob Fish, Othello, Washington

1 - 72 existing Bureaus - Divisions - units etc.

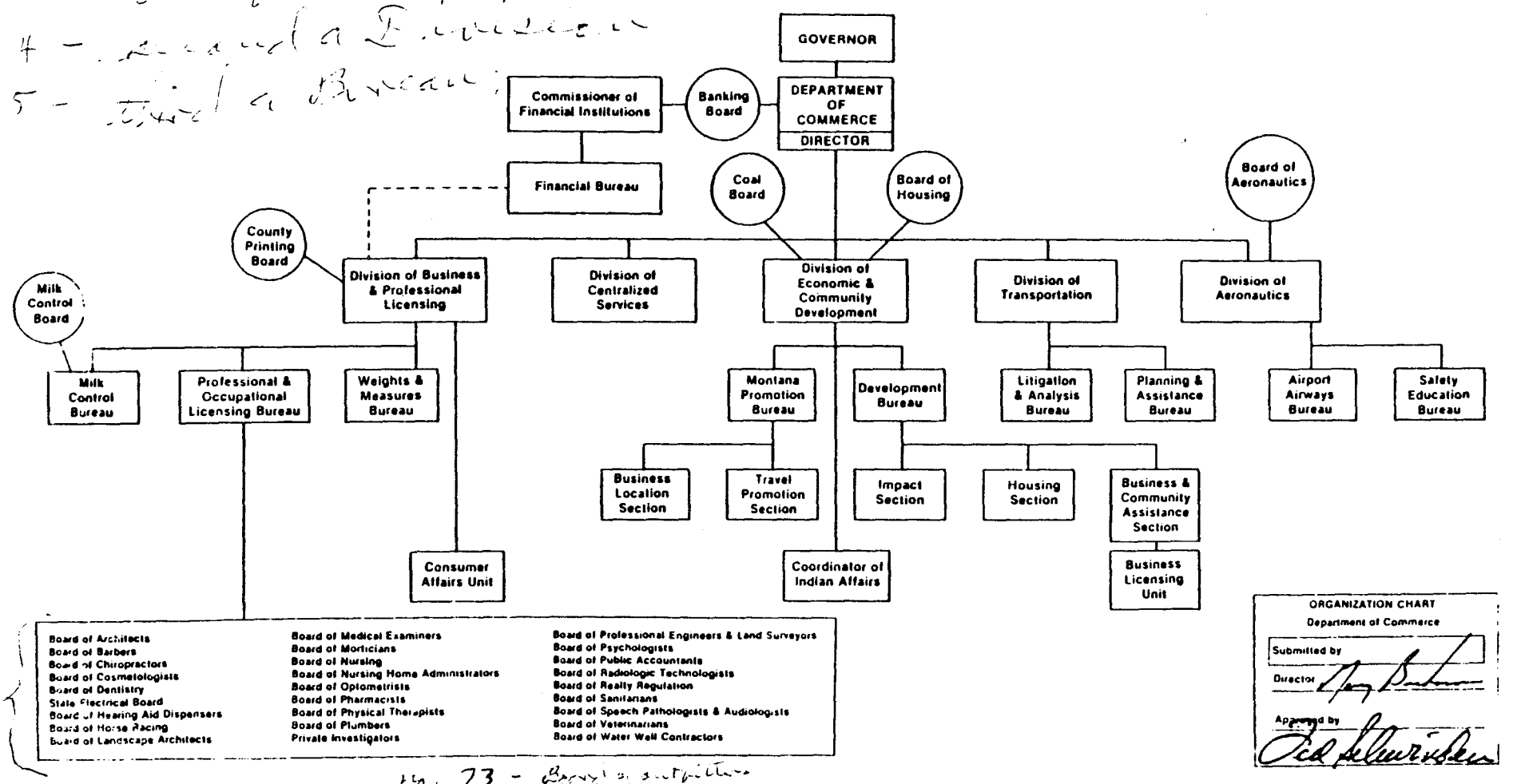
2 - including 32 ~~[illegible]~~ Boards

3 - outfitters will be # 73 on list under the Director,

4 - second a Division

5 - third a Bureau;

EXH. C.



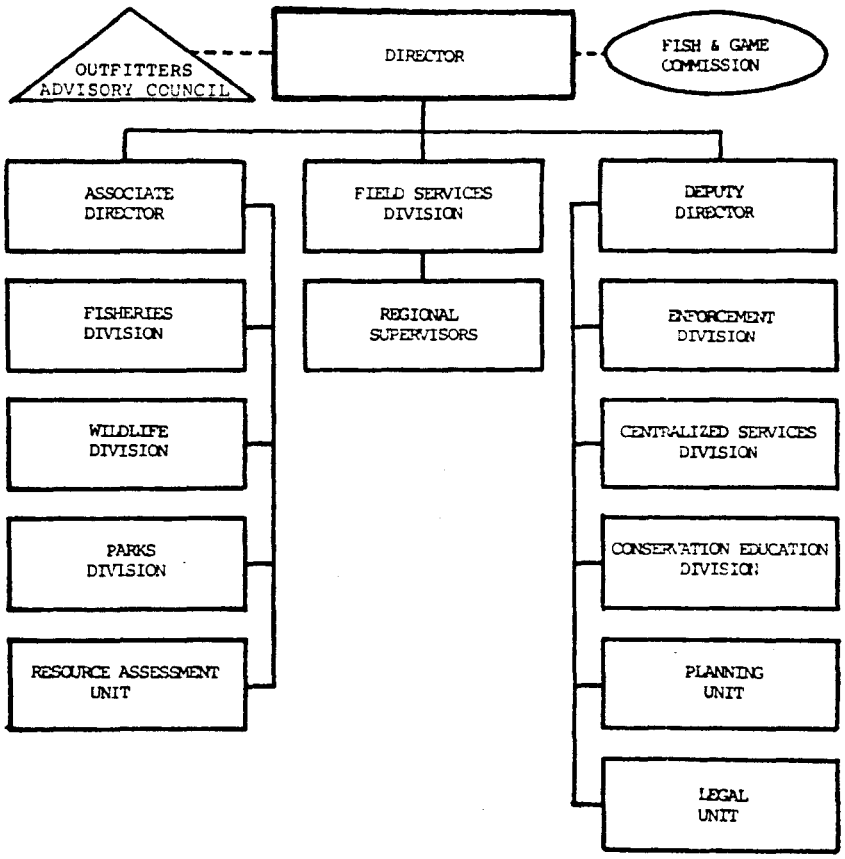
No. 73 - Board of outfitters

all of the above ~~all~~ share legal, office, investigation by 4 investigators.

Elsen
Exh. D

MONTANA DEPARTMENT OF
FISH, WILDLIFE & PARKS
ORGANIZATION CHART

ORGANIZATION CHART
MONTANA DEPARTMENT OF FISH, WILDLIFE & PARKS
September, 1983
Director
Governor



TO: ALL MONTANA OUTFITTERS

RE: MONTANA LEGISLATIVE COUNCIL HOUSE BILL 406 - Sponsored by Rep. Ed Grady

THIS LEGISLATION PROPOSES CHANGING THE "OUTFITTER COUNCIL", WHICH IS NOW AN ADVISORY COUNCIL TO THE MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS, TO A SELF GOVERNING BOARD UNDER THE MONTANA DEPARTMENT OF COMMERCE.

AS A GROUP OF CONCERNED OUTFITTERS, WE FEEL YOU SHOULD BE INFORMED ON THIS IMPORTANT ISSUE. THE FUTURE OF THE OUTFITTING INDUSTRY IN MONTANA MAY REST ON THE OUTCOME OF THIS LEGISLATION.

FACTS AT PRESENT:

UNDER THIS LEGISLATION, THE BOARD OF OUTFITTERS WOULD BE MADE UP OF SEVEN (7) MEMBERS, ONE MEMBER FROM THE PUBLIC, ONE MEMBER FROM THE DEPT. OF FISH, WILDLIFE AND PARKS AND FIVE (5) MEMBERS FROM THE OUTFITTING INDUSTRY. ALL BOARD MEMBERS WOULD BE APPOINTED BY THE GOVERNOR. OUTFITTERS WOULD ELECT THEIR NOMINATIONS IN EACH OF THE FIVE (5) FISH AND GAME COMMISSION DISTRICTS, TWO OUTFITTERS WOULD BE ELECTED FROM EACH DISTRICT AND THE GOVERNOR WOULD SELECT ONE OF THESE NOMINATIONS FROM EACH DISTRICT FOR THE APPOINTMENT. THEY WOULD BE APPOINTED ON A THREE (3) YEAR STAGGERED TERM. OUTFITTER BOARD MEMBERS MUST BE A LICENSED OUTFITTER WITH A MINIMUM OF FIVE (5) YEARS OF EXPERIENCE AND ACTIVELY ENGAGED IN AN OUTFITTING BUSINESS.

THE BOARD WOULD OPERATE ON A BUDGET SUPPORTED BY LICENSE FEES AND FINES COLLECTED. COST OF THE BOARD OPERATION APPEARS TO BE COMENSURATE WITH OTHER OPERATING OUTFITTER BOARDS. THE BOARD WILL HAVE RULE MAKING AUTHORITY AND ENFORCEMENT POWERS OF THE OUTFITTER LAW AND REGULATIONS. THE BOARD LIABILITY WOULD BE RETAINED BY THE STATE OF MONTANA.

UNDER THIS LEGISLATION, THERE WOULD BE VERY STIFF FINES FOR PERSONS FOUND GUILTY OF OUTFITTING WITHOUT A LICENSE. (ROGUE OUTFITTERS)

UNDER THIS LEGISLATION, THE BOARD WOULD HAVE FULL AUTHORITY TO ESTABLISH OUTFITTER STANDARDS AND PROFESSIONAL GUIDE STANDARDS, ADOPT RULES AND REGULATIONS COMENSURATE WITH THE LAW AND ESTABLISH AN ENFORCEMENT PROGRAM.

BEING UNDER THE UMBRELLA OF THE MONTANA DEPARTMENT OF COMMERCE, THE BOARD WOULD HAVE OFFICE SPACE, SECRETARIAL SERVICES, ATTORNEY SERVICES, STAFF INVESTIGATORS, COMPUTER TIME, OFFICE EQUIPMENT, ETC. ON A COOPERATIVE BASIS WITH THIRTY TWO (32) OTHER LICENSE BOARDS UNDER THE SAME UMBRELLA. THE DEPARTMENT OF COMMERCE WOULD HAVE NO POWER OVER THE BOARD OTHER THAN IN AN ADVISORY CAPACITY AND WOULD SUPPORT THE ADMINISTRATIVE FUNCTIONS OF THE BOARD.

REASONS FOR THIS LEGISLATION:

1. To dispell the perception that the Fish and Game funds are used on the Outfitter Industry.
2. The Outfitting Industry is a large industry contributing many millions of dollars in Montana's economy and should be in control of it's own destiny.
3. To dispell the feeling of the sportsmen of Montana that the Outfitting Industry is always in bad with the Dept. of Fish, Wildlife and Parks.
4. That Outfitting is the only business in Montana requiring a license that is not governed by a license Board.
5. To strengthen the enforcement capabilities and stiffen the penalties for illegal outfitting.

SUPPORTING THIS LEGISLATION:

1. Montana Dept. of Fish, Wildlife and Parks Director, Jim Flynn
2. Montana Outfitters and Guides Association Board of Directors (Unanimous)
3. Montana Department of Commerce
4. Fishing and Floating Outfitters of Montana Association
5. Montana Wildlife Federation

TIME IS OF THE ESSENCE

IT'S YOUR RESPONSIBILITY WITH THE DESTINY OF YOUR BUSINESS IN MIND TO ACT NOW!! GET A COPY OF HB-406
MOST COUNTY COURTHOUSES HAVE COPIES OR YOU CAN GET ONE THROUGH YOUR LEGISLATOR
MAKE A DECISION ..... INFORM YOUR LEGISLATORS ..... MAIL BACK ENCLOSED RETURN CARD TODAY!!

IN ADDITION, YOU MIGHT WANT TO CONTACT YOUR MOGA OR COUNCIL REPRESENTATIVE TO VOICE YOUR OPINION OR GET MORE FACTS.

Why no signature - Because it's only half true

Information from Vice President Ron Curtiss to accompany newsletter #3 from Tag Rittel

February 28, 1987

Exh. F

OUTFITTER TRANSFER BILL

During the early days of the 1987 legislative session, those of us who were working in the legislature found out that there was a bill being introduced that would transfer the outfitter council from MDFWP to the Department of Commerce, and change the outfitter advisory council to a board of outfitters. We were asked if MOGA would support such a move. Before taking a stand on the issue, we went out to find out everything we could, with the limited amount of time we had, about how the transfer would effect the outfitting industry. We went to the Department of Commerce, MDFWP, the Attorney General's office, we contacted the Idaho Outfitters Board, Colorado outfitters and the Alaska Guide Board. Once we looked at the information we received, it was obvious to us that the transfer was not only good, but absolutely essential to the future well being of the outfitting industry. Here are a few of the FACTS we found.

1. There are 93 licensed professions in our state and 92 of them have their own board--only outfitters do not.
2. Licensed professions have 32 self-governing boards and all are in the Dept. of Commerce.
3. Except outfitters, every licensed profession is regulated by a board made up of members from it's own profession.
4. Outfitters and guides licenses bring in $108,000.00 a year.
5. The board would support it's self from license fees.
6. The Dept. of Commerce would charge the outfitter board $43,000 a year for all administrative costs (secretarys, legal staff, investigators, computer time, meetings, mailings, etc.).
7. MDFWP now charges outfitters $48,000 for administrative costs (mostly supervisor of outfitting salary).
8. The board could provide it's own enforcement of illegal outfitting.
9. The board COULD spend up to $60,000 a year on enforcement (without increasing license fees).
10. The board could re-write rules setting up requirements to become an outfitter, in fact all rules pertaining to outfitters.
11. There would not be a supervisor of outfitting under the board system. The board, in effect, would be the supervisor of outfitting.
12. MDFWP could continue (in factthe director says they will continue) to enforce the outfitting without a license law.
13. The board could run undercover operations to help stop illegal outfitters.

After considering the facts, we knew that we had to support the move to the Dept. of Commerce, and your MOGA Board of Directors unanimously concurred. Here are some things that we found the board could do for the outfitting industry.

1. By picking the five outfitter members on the board, we would be assured that decisions about our industry would be made by outfitters.
2. The board could make rules that would better control the numbers of outfitters.
3. The board could more effectively enforce illegal outfitting laws.
4. The board could upgrade the professionalism of the outfitting industry.

We do not feel the law, as it is now written, is perfect. We had input and made some changes that needed to be made in order to make the new law workable. It is our feeling that the new law, as it is written, is a good law and will greatly benefit our industry. However, it is our intention to work under the new law until the next legislative session then, using the experience gained in the interim, go back to the legislature and make any necessary changes in that law.

THIEVES IN THE WOODS

Hundreds of illegal outfitters are ripping off sportsmen and giving legitimate operators a black eye. It's high time to put the rogues out of business.

By Gary Turbak

There are thieves in the woods. Just ask Tom Price of Montgomery, Texas.

Tom and five friends signed on with a New Mexico outfitter whose literature offered "a quality hunt" and the "extra effort it takes to make your hunt a success." Over the phone, the outfitter promised a five-day drop-camp mule deer hunt on 15,000 acres of private land. Services were to include packing in and out, cooking and sleeping tents and cooking equipment. Each hunter paid $225.

Here's what the hunters found: Ranch accommodations advertised as being "on par with the finest" consisted of a trailer house and small barn. The outfitter had two horses available for the six hunters and their gear. The drop camp was about 1½ miles off the road, and the hunters packed most of the gear in on their backs. The one available tent leaked, and cooking gear consisted of a single Coleman stove on a camp stool and a few pots and pans. No firewood had been cut. The outfitter beat a hasty retreat from the camp after promising to check on the men in three days and to pack them out in five.

The Texans decided to make the best of a bad situation, but things soon got worse. By the end of the first day they realized there was little game in the area. On the second day they met a local hunter who told them they were on national forest land, not private property. Heavy snows hit on the third day. The hunters waited as long as they dared and then packed the gear out on their backs rather than risk getting caught in a mountain blizzard. The six sportsmen had been fleeced.

They aren't alone. Illegal, unethical and unscrupulous outfitters operate throughout the prime hunting areas of the West. They're as much a threat to legitimate outfitters as to sportsmen.

"If we don't get a handle on them pretty soon," says Marion Scott,

continued on page 99

earlier you'd have seen us while we were still on fire!"

I thought for sure he was going to haul us off to jail, but instead he just smiled, took one last look at the smouldering debris, and started to saunter back to his car. "Well, if you fellas turn up any information about the explosion," he said over his shoulder, "I'd appreciate it if you'd let me know. I don't reckon there'll be another one, do you?"

"Nope," Retch and I said in unison.

Then the deputy stopped and kicked gingerly at something on the ground in front of him. It was Retch's muskrat hat! The deputy turned and gave us a sympathetic look. "Too bad about your dog," he said.

The cannon pretty well quelled our enthusiasm for building our own muzzleloaders from scratch. Not only had it made a big impression on us, it had made numerous small impressions. Years later, while I was undergoing a physical examination, the doctor commented on some bumps under my skin.

"Pay them no mind, doc," I told him. "They're just pieces of sewer pipe."

At this juncture of my recitation, Milt Slapshot jumped up and headed for the door.

"Thanks," he said. "You've answered my question."

"Gee," I said. "I've even forgotton what the question was. But if you need any help putting your muzzleloader kit together, Milt, just give me a call."

He hasn't called. I suppose he's been tied up at the office a lot lately.

THIEVES IN THE WOODS

continued from page 51

outfitter and president of the Wyoming Outfitters Association, "the bad apples are going to destroy the outfitting industry."

Authorities in Montana, Colorado, New Mexico, Idaho and most other Western states agree that a problem exists. In California, Washington and Oregon the illegal activity is often associated with river floating. In the mountain states, it's big-game hunting in the fall and fishing trips in the summer. Some Canadian provinces also report violations.

But officials in all areas are quick to echo the words of Bill Maloit of Montana's Department of Fish, Wildlife and Parks: "There are a lot of good outfitters in the West. All sportsmen have to do is find them. Unfortunately, the honest outfitter's reputation is hurt by the activities of a relatively few crooks."

Time was when phony outfitters were about as sophisticated as a punch in the nose. Several years ago, an unlicensed Montana outfitter journeyed to Washington state and booked 12 hunters on a dream elk hunt for $1,200 each. The dream turned to a nightmare, however, when October rolled around and neither the outfitter nor the money could be found.

Today, a rogue's tactics are more refined. He steals from state and federal taxpayers by not buying licenses and permits. He steals from honest operators by ruining the industry's reputation and by luring away clients. And he steals from the general public by abusing natural resources. But mostly he steals from the hunters, fishermen, river floaters, photographers and wilderness enthusiasts who hire him.

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Name _____ *Age* _____

Address _____

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OVER 450,000 STUDENTS HAVE TAKEN THIS FAMOUS COURSE!

Here are a few of the victims:

• Some sheep hunters in Idaho spent a week in a drop camp in an area closed to sheep hunting. The place had no sheep anyway.

• At least one group paid for a wilderness survival experience in Montana and were simply dumped in a remote area and told to walk out.

• A group of Colorado elk hunters paid $750 each for a guided hunt. The guides wouldn't get out of bed. The cook wouldn't cook. Elk meat spoiled. One hunter broke his ankle and was not taken to medical help for two days.

"The biggest complaint I hear," says Ed Amonette, president of the New Mexico Council of Outfitters and Guides, "is that a rogue's services are mediocre or worse. Supposedly guided hunts may not be guided at all. Or hunters are put in a drop camp where there hasn't been any game for years."

Lewis Janes and four other Florida hunters recently found themselves in such a drop camp.

"The outfitter didn't have enough horses," Janes told me, "so we had to walk in, but that wasn't much of a problem since this guy's idea of a drop camp was one about a mile off the road. Before he left us, he pointed to a ridge a couple of miles away and told us we might have to hunt into the next drainage to find elk."

The group of experienced hunters found no elk sign and soon began to wonder why they'd seen no other hunters. On the third day they happened upon an employee of the state fish and game department who told them that elk almost never inhabit the drainage they were hunting. The angry hunters packed their gear out, drove 60 miles to an area suggested by the warden, and found elk on their own.

In Montana, law-enforcement personnel still chuckle about the famous peanut butter case. Two hunters from Tennessee hired an outfitter partly because his promised backcountry menu included such culinary delights as prime rib and lemon pie. What they got was peanut butter sandwiches—morning, noon and night. To add insult to hunger, the guides one day gobbled up the peanut butter sandwiches that were to be the hunters' lunch.

Statistics are scarce. In fact, the only available numbers come from the U.S. Forest Service's Region 1, which includes Montana, North Dakota, and parts of Idaho, Washington and South Dakota. Forest Service officials believe 256 illegal outfitters plied their trade in Region 1 in 1979, while 363 legitimate operators held licenses. The outlaws catered to an estimated 1,788 clients and took in more than $700,000.

"Illegal outfitting may not seem like much," says Bill Longacre, chief special agent in Region 1, "until you realize that these guys are doing nearly a three-quarter million dollar business in two months in just a couple of states. If that was a bank robbery, it would be front page news."

Who are the illegal outfitters? They may be skillful hunters who won't or can't buy an outfitters license because they're cost-cutters and second-rate operators.

"In my experience," says Ed Amonette, "the rogue outfitter is not well equipped and looks upon his clients as suckers."

In many states outfitters are screened and licensed by the state. Their equipment and stock are inspected, and their guides must meet certain standards. To hunt on national forest land, the outfitter must have a U.S. Forest Service permit and must pay guest fees and camping fees. He'll likely be assigned to a camp area. Also, the legal outfitter must carry insurance to protect himself, his clients and the government.

Rogue outfitters abide by none of these regulations, and they generally have little regard for ethics. Some operate 40 to 50 percent cheaper than honest outfitters.

Rogues come in all shapes and sizes. They might operate out of a bar and attract clients by word of mouth. Some advertise and publish slick, enticing brochures.

Other illegal and unethical activities sometimes become part of rogue outfitting. Bill Maloit says rogues have been known to put chemicals in mountain streams to kill fish for camp food. Bill Longacre says illegal outfitters have helped clients poach grizzlies, mountain lions and other animals; they've left elk and deer to rot in the brush; they've used salt to attract game and chain saws to cut firewood in wilderness areas; and they've left game untagged, camps uncleaned and clients unsatisfied.

If the offenses are so blatant, why aren't illegal outfitters arrested and put out of business? Some are, but most are not. Officials say it's hard to apprehend and prosecute them.

For starters, a rogue can make himself hard to find. He might move camp frequently. But many rogues include their clients into a conspiracy by having them pose as longtime friends. If hunters swear that they're all old Army buddies, for example, that makes the rogue just a good friend, not a professional outfitter who must have licenses, permits and insurance.

Last fall Montana officials found what they suspected to be a rogue's hunting camp. A warden, posing as a local hunter, talked to several clients separately. All told the same story almost verbatim: "Oh, we're just old friends. Jim (the outfitter) used to live in our neighborhood in Florida and he invited us up here to hunt elk. He'll be coming down to Florida to hunt quail with us next fall. Pay him? Oh, no. We all chip in a little for the food, but that's all."

When clients and rogue outfitters are in cahoots, the hunters might pay with a new trailer house, a horse, or by selling the rogue a pickup truck for $5. There are no cancelled checks, no receipts, no proof.

"We can usually tell if an outfitter is a professional by looking at his equipment," says Bill Maloit, "but it can be virtually impossible to prove unless we get a complaint."

And some of the complaints are whoppers! One Pennsylvania sportsman chronicled his 1979 elk hunt with 24 hand-written pages of scathing attack on a licensed but unethical outfitter and his guides. The hunter told of hunting days ending at 10 a.m., of having to chop his own wood, of guides shooting elk from under a hunter's sights, of guides sleeping or drinking the day away, of untagged elk (shot by guides, not hunters), of being dumped alone in strange country in early morning blackness and of falling 50 feet down a steep embankment. "Sooner or later," he concluded, "some one will get hurt or lost because of these people." The hunt cost the man $1,100.

→

AVOIDING ROGUE OUTFITTERS

To help you avoid dishonest outfitters, law-enforcement agencies and legitimate outfitters suggest the following guidelines:

• Get a written contract. Don't place stock in telephone promises.

• Never pay cash. Always get a receipt. Paying a third to half the total in advance is considered standard. Never pay the full amount in advance.

• Be sure the prices quoted cover all costs, including sales tax.

• Check with the state agency that licenses outfitters and with the professional outfitter's association in that state. They can tell you if an outfitter is licensed and if previous complaints have been lodged against him. However, some states, such as Texas, New Mexico and Colorado, do not license outfitters.

• Ask the outfitter for references. Insist on having names, addresses and phone numbers of former clients who killed game and of some who did not (three of each is about right). Call or write all of them and find out what their hunts were like.

• Find out where and when you'll be hunting. If you'll be hunting on public land, contact the local office of the controlling agency to see if your outfitter has the necessary permits.

• Ask the outfitter all the pertinent questions you can think of: What type of hunt will it be? On what kind of terrain? What weather is considered normal? To what extent will horses be used? How many hunters will be assigned to each guide? How far is the camp from the trailhead? How much time will be spent traveling to the camp, and is that time considered part of the hunt for which you're paying? What equipment should you bring? Get answers in writing.

• Have all terms properly defined in writing. Exactly what does "wilderness hunt," "drop camp" or "horseback hunt" mean?

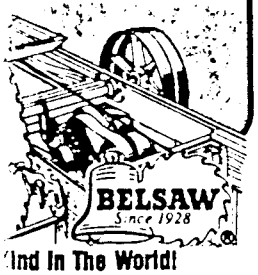
• If possible, visit an outfitter's base well ahead of your hunting dates. Summer vacation is a good time for this. The appearance of an operation often can give you an insight into the quality of services you'll be receiving.

• Don't be misled by flashy brochures and photos of trophy heads. Anyone can print a brochure.

• Beware of claims of extremely high success ratios. Most legitimate outfitters don't guarantee success.

• Report illegal and unethical activities. Also notify the appropriate outfitter's association.

ONE-MAN
Sawmill



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Sportsmen obviously have good reason to avoid this kind of operation, but if a rogue is providing an adequate service—as some do—should hunters still avoid him? Yes, for several reasons.

First, they're breaking the law if they don't. "Sportsmen had better realize that they're part of an illegal operation if their outfitter does not have the proper licenses and permits," warns James Baughman of the Idaho Outfitters and Guides Board.

"It's like driving the car at a bank robbery," explains a Colorado official. "The driver is as guilty as the robbers, though he never set foot inside the bank."

Second, if something goes wrong during a hunt, a rogue is likely to put his own interests ahead of his clients.

A few years ago, a female cook in an illegal Wyoming hunting camp wandered away and got lost. She spent three cold nights in the woods, suffered severe frostbite and eventually became crippled because her rogue employer refused to call in searchers. Why hadn't he? He knew that if he did his illegal operation would be detected and he could end up in court. "If that's how they treat their employees," asks an investigator, "how do you think they'll treat a client in an emergency?"

Also, sportsmen hiring an illegal outfitter have little recourse when they see they're being ripped off because they're breaking the law just as the outfitter is. Illegal outfitters know they're protected this way, and they aren't going to be nearly as concerned about giving quality service.

Then there's the respect most sportsmen feel for wildlife and land resources. Rather than encouraging illegal and unethical activity by employing rogues, sportsmen should help law-enforcement officials eliminate rogues. "Turn in the scoundrels!" officials plead.

But even when authorities have the proof, taking rogues to court can be frustrating. Again, the only figures available are for the Forest Service's Region 1. In 1979, that region prosecuted 11 illegal outfitters, but only $800 and six months time were assessed in penalties.

"More than once we've spent a lot of money, put together an undercover operation and pulled the whole case together, and the judge fined the rogue $100," Bill Longacre told me.

James Baughman says an illegal outfitter may gross $5,000 on a group of hunters and get fined a couple of hundred dollars if caught. "Small fines like that have a nuisance value and that's all," Baughman told me.

Rogues are well aware of the courts' approach to illegal outfitting. One Idaho rogue was hauled into court for guiding a group of nonresident elk hunters. His fees had totaled $4,000. The judge found him guilty and meted out a $300 fine. As the rogue left the courtroom, he turned to the judge, smiled and said, "I'll see you again next year." For some, the fine is just another cost of doing business.

Despite courtroom disappointments, law-enforcement officials are attacking the problem. Several states and the Forest Service use undercover agents to sign on with illegal outfitters. Authorities have begun to push for maximum sentences and to take rogues to court early in a hunting season so that their hunting licenses might be lost for that year. And legitimate operators work hard to combat their illegal competitors.

Several state and federal agencies in Montana have teamed up to create an Illegal Outfitter Task Force.

And most rogues—in Montana and elsewhere—would much prefer not to get caught. One unlicensed outfitter was about to take several clients on a float trip down Idaho's Salmon River when a Forest Service official arrived. The rogue appeared nervous as he provided a lengthy story to support his claim of legitimacy.

"We'll check out your story," the officer said. "If you're not telling the truth, we'll be waiting for you at the other end."

Just a few miles downstream, the rogue beached the rafts. He got out and set off on foot, leaving his gear behind and his guests to fend for themselves. Officials later traced his route as he hitchhiked to Colorado, never to be seen in Idaho again.

What can sportsmen do to help? First, remember that most outfitters are honest and reliable. Make a strong effort to hire them, not their illegal competitors.

Second, report violators to the proper authorities. Hunters, fishermen and other clients are easily the best source of information about unethical operators. If sportsmen become quick to turn in violators, the thief in the woods may soon become an endangered species.

FISH ON!

continued from page 43

at the cloud cover and read his meter. He reset the camera for proper exposure and said, "Where is he now?"

I told him. The salmon jumped twice, but they were the tired jumps of a spent fish, not a fair representation of a bright Newfoundland salmon's dramatic response to an angler's strike.

That night I did some thinking. If I were a salmon and had traveled thousands of miles to return to my native river before deciding where to rest, I wouldn't want to leave. If, while I was lying there, a sea louse on my side gave me a sharp bite, what would I do? I decided that I might squirm a little or rub my side against the bottom, but I certainly wouldn't leave the place I'd selected so carefully. I knew then what I would do the next day.

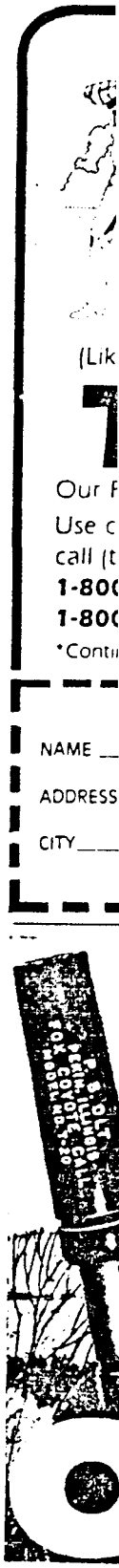
By the time I hooked a salmon Ralph was relaxing against a tree stump some distance away. After setting the hook just hard enough to sink the barb, I gave the fish slack, and it dropped right back into its carefully selected lie.

"Ralph, I've got a salmon on," I called.

He was beside me in an instant. "Where is it?" he asked.

"See that white rock on the streambed out there?" I replied. "He's about six feet upstream. Set the camera for slow motion and use the three-inch lens. When I hear the camera rolling I'll tighten up, and ten to one he'll jump."

When I heard the camera whirring, I tightened my line, and the salmon showed us some beautiful jumps, beginning, as all good jumps should, with his nose suddenly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Outfitter guilty of animal cruelty counts

Roland Cheek of Columbia Falls was found guilty on two counts and innocent on a third count of cruelty to animals by a Justice Court jury Friday.

The jury debated more than five hours before returning the verdict in the court of Justice of the Peace Mary Riedel.

Cheek was charged in January with eight counts of cruelty to animals after one of his horses died and neighbors reported others in a field at Sullivan's Crossroads were in poor condition.

Later the complaint was amended with count one the dead horse known as "Dang It;" the second count six other horses in poor condition; and the third count the other 17 horses in the pasture.

The horses were used by Cheek in his outfitter and hunting guide business in the Bob Marshall Wilderness.

The case began at 8:30 Tuesday morning and continued daily until Friday at 11 a.m. when the matter went to the jury for a decision. The decision had to be unanimous among the one man and five women on the panel. The jury elected a chairman, had lunch and settled down to review of the evidence and testimony. They returned their verdict after 5:30 p.m. Friday.

The state's witnesses during the week emphasized the poor quality and quantity of horse feed in the pasture, the lack of drinking water, lack of shelter during extremely cold temperatures, the fact the horses hadn't had shoes removed before being placed in the pasture and that some had saddle sores which were not cared for.

The defense called witnesses who said the animals were cared for in a manner in keeping with typical Montana horse care for open winter range, that the horses did not need water when they had snow, and also that they were able to paw through to pasture grass underneath. They also showed samples of the supplemental hay feeding they said took place.

The charges were filed in January. Cheek entered an innocent plea Feb. 2.

A parade of witnesses for each side of the case filed through the justice court in the four days. The state called 17 including veterinarians, the Flathead County animal warden, neighbors and local newspaper photographers who testified to the condition of the pasture and the horses in early January.

The defense called 12 witnesses including members of the Cheek family, Cheek, outfitters and neighbors who had ridden and cared for the horses in the wilderness.

Sentencing on the two counts will be scheduled later by Riedel, and most likely will be this coming week, she said.

The county attorney's office was represented by Dennis Hester and the defense by Dean Jellison.

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Ralph Jackson, former building inspector for the city of Kalispell, related the story to a Kalispell friend. The two met at an airport in Eastern Montana and the conversation fell into one of the top topics of the day: the energy crunch.

Jackson said he could buy all the diesel fuel and gasoline he wanted, and there were absolutely no shortages, no lineups at fuel pumps.

One hitch to the whole thing, the fuel bonanza is taking place in the country where Jackson moved to after leaving Kalispell employment: Costa Rica.

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WEDNESDAY, DEC. 17, 1986

Outfitter admits rip-off of clients

By ROBERT EKEY
Gazette Bozeman Bureau

BOZEMAN — A Wilsall-based outfitter has pleaded guilty to a series of criminal charges in Gallatin County, leading to suspension of his outfitting activities for two years and fines of $3,000.

Tom Brogan pleaded guilty to five misdemeanor charges, including misrepresentation of services and illegally shooting a moose. In exchange for the guilty pleas, charges of witness tampering were dropped in Park County and other minor charges were dropped in Gallatin County.

The convictions ended a yearlong investigation by the Department of Fish, Wildlife and Parks into Brogan's outfitting business, which is one of the largest in the state and one that generated frequent complaints.

Jim McKenna, an assistant prosecutor for Gallatin County, said the most important charge against Brogan involved the misrepresentation of services.

"He really ripped off those hunters. They paid $1,300 each for seven days of hunting and they were sleeping in mud in old, rotten canvas tents. The food was terrible," McKenna said. "They were really angry.

"We felt from the beginning misrepresentation was the most important charge because it hurts honest outfitters," he said.

Bill Maloit, an outfitter enforcement officer for FWP, said the misrepresentation of services was a common complaint about Brogan's business.

"We had complaints just about every year on that basis. It is a difficult thing to prove, an expensive thing to bring back people to testify. This year we had concrete evidence and people willing to come back and testify," Maloit said.

The state's outfitter council will now hear complaints concerning Brogan and his guides. The complaints ask for a revocation of Brogan's outfitting license.

As one of the state's largest outfitters, Brogan's business guided 60 to 70 hunters per year.

Several years ago, some editors from the Milwaukee Journal signed on. The result was a three-part series in the Journal on how nice the country and Montanans were to the editors — but how poorly they had been treated by Brogan, Maloit said.

"When these kinds of things happen, it gives the industry a bad eye. There are good outfitters out there, but there are some that have larceny at heart and those are the ones that create problems," Maloit said.

Brogan had been charged in Park County with two felony counts of tampering with witnesses and nine misdemeanor charges in Gallatin County, including misrepresentation, illegally shooting a moose, equal responsiblity for alleged criminal acts of his guides, and filing false outfitter reports.

Prosecutors agreed to the plea bargain, in part, because of the cost of bringing witnesses from other states to testify, according to Mike Murphy, an assistant attorney general who was involved in prosecuting some of the charges.

Brogan pleaded guilty to:

- Misrepresentation of services, $500.
- Equal responsibility, $500.
- Illegally taking a moose, $1,000.
- Equal responsibility, $500.
- Misrepresentation, $500.

Maloit said that FWP wardens Ron Carlson of Big Timber and Dave Etzweiler of West Yellowstone worked to build the case against Brogan. The investigation included dozens of interviews with clients and guides, with many of the clients spread across the country.

Murphy said that part of the plea bargain in Park County calls on Brogan to assist in the continuing investigation of alleged illegal activity by his guides and patrons.

Disgruntled hunters sue guide

By KAREN E. DAVIS
IR Staff Writer

The president of the Montana Outfitters and Guides Association has been sued for fraud by two South Dakota brothers who allege they hired him expressly to hunt a grizzly bear, which they didn't get.

The five-day trial before Helena District Judge Gordon Bennett went to the jury Friday afternoon, but had not reached a verdict by presstime.

Outfitter Tag Rittel of Wolf Creek was also sued under the Montana Consumer Protection Act, for an unfair business practice, i.e. selling his outfitting business, the Black Tail Ranch, and allegedly not telling the two men that someone else would be their guide.

The suit stated that Lloyd and Larry Weaver had signed up for a 10-day hunting trip with two guides — including Rittel -- and various promised camp ammenities. They allege that the guides they got had never been in the Scapegoat Wilderness — the area of the hunting camp — before, didn't know what they were doing and had never hunted grizzlies before. They also complained about the food, about having to stand in camp, about the lack of a promised cook tent, and the fact that two days were used to pack in and out so they only hunted eight days instead of 10.

The Weavers asked for $25,000 in actual and emotional damages, and unspecified punitives. The trial revolved on whether or not the Weavers were specifically promised a grizzly hunt — or a general hunt — and if they were specifically promised Rittel as a guide.

Three other parties sued by the Weavers all settled out of court just before the trial started Monday, a fact the jury wasn't told. The Weavers had also sued Jack Atcheson and Sons, Inc., of Butte, who booked the hunt; Ron Brinker, the guide who bought the outfitting business from Rittel and took the Weavers out; and J.R. Burns, a guide who worked for Brinker.

Brinker, who had put $35,000 down to buy Rittel's $100,000 business, has since defaulted and turned it back to Rittel, who has sold it again.

According to court briefs and almost three hours of closing arguments Friday morning, the Weavers approached Atcheson in April, 1982 to book a grizzly hunt in Montana. He wrote back that Montana wasn't really the state for it, but an outfitter he knew — Rittel — had had some luck hunting grizzlies, and put them in touch with each other.

Rittel maintained that he signed them up for a general "horseback elk hunt" and that he never promised to personally be their guide.

Attorneys for both sides made as much as they could in their closing arguments of contradictions in both written exhibits and testimony. Atcheson sent the Weavers his information on Rittel, which mentioned "since you're hunting elk and bear...getting a grizzly is Montana is a tough proposition, but, never the less, Tag has taken his share."

But another letter mentioned their hunt "for grizzly as a primary."

In addition, Brinker and Burns weren't technically licensed by the State as guides until the middle of the hunt, because they hadn't mailed their applications in.

Cumins also mentioned that Rittel had never in his career taken anyone on a hunt specifically for grizzly, and had told the Weavers to be sure and have a general license.

Expert testimony from game wardens during the trial revealed that only 30 of the 115 grizzlies killed by hunters from 1973-81 had been taken by outfitters, and that the state sells 400 grizzly licenses a year, but closes the grizzly season after 25 animals have died from any cause.

The Weavers' attorney Jon Motl stated in closing arguments that they were never told of the "financial relationship" between Brinker and Rittel, and spent days in the hunting camp under the impression that Rittel was eventually showing up. "They didn't know they had been transferred like a slab of meat," he said.

Rittel's attorney Robert Cummins, however, characterized the Weavers as modern day "Grizzly Adams'," who only started to care about how the hunt turned out when pressured later by their father. He called their case "full of hooey" and "red herrings."

The Weavers did see a grizzly their first day, he recounted, and killed two deer, shot an elk and wounded a black bear.

France gets fined $100 in elk case

By ROBERT EKEY
Gazette Bozeman Bureau

VIRGINIA CITY — Former Madison County Sheriff Johnny France, who gained national attention for capturing two fugitive mountain men, Tuesday was convicted of chasing elk on a snowmobile.

FRANCE
ex-sheriff

France was fined $100 and had his hunting privileges revoked for two years by Virginia City Justice of the Peace Barbara Brook.

France, 46, quietly admitted that he chased elk while he was on a snow machine and chased elk for several hundred yards on Nov. 16.

Tuesday's court hearing was the result of a 2-month investigation after 11 witnesses complained that France had chased elk on a snow machine and had illegally possessed an elk. Peter Funk, an attorney for the Department of Fish, Wildlife and Parks, said the guilty plea by France and fine were negotiated with his attorney.

Funk said the chasing elk with the motorized vehicle was the only criminal charge ever considered against France.

France gained national fame in December 1984, when he single-handedly captured mountain men Don and Dan Nichols, who had been fugitives for five months for kidnapping a Bozeman athlete in the mountains near Big Sky, shooting her and killing a would-be rescuer.

Since the national notoriety and the mountain-man trials, France has been slipping in popularity in Madison County. He was voted out of office in the June primary election, being defeated by one of his own deputies. He tried a write-in campaign in the November election but came in third, losing to another write-in candidate.

After the election came the complaints about the game violations. The complaints came from two groups of hunters and some workers on a drilling rig.

The complaints were investigated for nearly two months by the Department of Fish, Wildlife and Parks.

Funk said he was asked to prosecute because the Madison County prosecutor bowed out claiming a conflict of interest. A special prosecutors' office of the attorney general's office also said it could not prosecute France because of their involvement in the Nichols case.

Funk said Tuesday's conviction will not affect France's fishing-guiding business in the Bear Trap Canyon of the Madison River.

Outfitter trespass nets federal fine

Ravalli Republic
1/9/87

An outfitter and hunting guide cited for driving behind a closed gate on the Bitterroot National Forest has been fined $100.

Dave Walker of Darby pleaded guilty to the charge before federal magistrate Tom Murray in Missoula on Dec. 22.

The incident occurred on the West Fork Ranger District during the 1986 Montana hunting season.

Bar owners protest more wine, beer outlets

By The Associated Press

If Initiative 94 is approved by the voters next Tuesday, drunken driving will increase in Montana and it will be more difficult to control underage drinking, a spokesman for the Committee to Keep Montana's Limit on Beer and Wine says.

"We respect the right of people to enjoy restaurants where beer and wine aren't served, and we think I-94 would greatly restrict the number of restaurants with non-drinking, family atmosphere," committee spokesman Don Larson said Tuesday.

Larson, a Helena restaurant-motel-bar owner, said the committee is composed of members of the Montana Tavern Association.

The initiative, which has been promoted by members of the Montana Libertarian Party, would abolish the quota system on beer and wine licenses for restaurants and other businesses capable of selling meals to the public. Establishments holding licenses under the present quota system would be entitled to a transferable credit on their state taxes for any loss in the fair market value of that license.

Currently, Larson said, "licenses are hard to get and they represent a considerable investment. Business people who have licenses are more likely to obey underage drinking laws — and avoid problems — than if licenses were just handed out right and left without effort or investment. People who have to work harder to get licenses work harder to keep them."

And Larson said the Libertarians say they are against any government at all, but are taking advantage of the Fairness Doctrine in advertising, which established that radio and television stations must give free time to opposition views.

Stations sometimes charge double to initiative opponents to cover the free time they must give initiative supporters, Larson said.

AROUND MONTANA

Hunter shot by his own guide

HAMILTON, Mont. (AP) — A California man was shot by his guide, who mistook him for a deer, while hunting south of Hamilton on Tuesday, Ravalli County Sheriff Harold Dye said.

Leo P. Smith, 57, listed in stable condition in Missoula's St. Patrick Hospital.

Hamilton area guide Phil Taylor submitted a statement to authorities that said he was hunting with Smith and Royce Cornelson, both of Bakersfield, Calif.

Taylor said he fired two shots from his .30-.30 rifle at what he thought was a deer. The first shot missed, but the second bullet entered below Smith's left shoulder and pierced his arm.

Dye said the bullet missed Smith's spine and lung, but shattered the bone in his upper arm.

Smith said the first shot sprayed dirt near him, and he yelled before Taylor fired the second time, according to Cornelson.

Smith was conscious after he was shot and occasionally joked with rescue personnel until he was loaded aboard a helicopter for the flight to Missoula.

Dye said the incident appeared to be an accident and said he didn't expect to file charges.

The state's general big game season opened in western Montana on Sunday.

Another shooting was reported in Jefferson County, west of Boulder. Bob Birkelo of Butte was reported in stable condition in St. James Community

his orange hunting vest and other clothing to relieve himself. Smith said the first shot sprayed dirt near him, and he yelled before Taylor fired the second time, according to Cornelson.

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The state's general big game season opened in western Montana on Sunday.

Another shooting was reported in Jefferson County, west of Boulder. Bob Birkelo of Butte was reported in stable condition in St. James Community

had been hunting with his brother-in-law, Dennis Axell of Helena.

Doyle said the two parked their pickup truck near Interstate 15. Birkelo got out of the truck to look for deer and get a drink of water. Axell lifted a level-action rifle from the truck's gun rack, and it went off, firing a round through the right side of the truck, hitting Birkelo with a bullet fragment above his left eye, Doyle said.

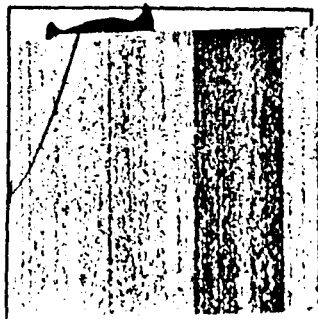
Doyle termed it a "100 percent accidental gunshot wound."

Highway funding about the same

The Federal Highway Administration has informed the state Department of Highways that it will receive about $66 million during the 1983 fiscal year — about the same level as for the last fiscal year.

Department Director Gary Wicks said Tuesday that while the new funding will continue some of the state's highway projects, it is about a $20 million reduction from the federal funding levels prior to 1982.

The separate funding of the interstate system at about the same level as last year will



Ken Bisio

Photos © Laurance Aiuppy

Illegal spoils in the Rockies: Animal trophies seized by the federal government, an agent examines a cache of bighorn sheep skulls

Stingtime for Poachers

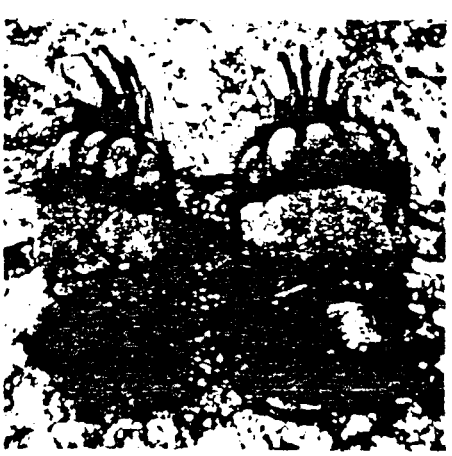
They are accused of offering the most-prized trophy animals of the Rockies, and for prices ranging from $2,500 to $20,000—depending on the beast—a kill was guaranteed. How could a hunting business make such a promise? By guiding clients onto public land after the fall hunting season closed, when elk, bighorn sheep, mountain goats and mountain lions are at lower elevations and much less on their guard. Last week, thanks to five undercover agents for the Fish and Wildlife Service, the business abruptly went out of business. Seven hunting guides, including Denver police detective Dale Leonard, were indicted in Colorado, and nine more indictments are expected in Montana. State and federal agents claim they have cracked the biggest poaching ring ever uncovered in the Rockies.

The Colorado operation illustrates the service's new emphasis on "sting" work. In the past, Fish and Wildlife agents and their state counterparts looked on themselves simply as game wardens, keeping an eye out for the rural poacher who killed to feed his family. With the upsurge in commercial exploitation of wildlife on public land, however, that attitude is changing rapidly. In recent years, federal agents have been deployed undercover to combat poachers in Alaska, where walruses are being hunted for their tusks; in California, where Indians have been accused of sweeping king salmon from streams with gill nets, and around Lake Erie, where in one case 1 million pounds of walleye were lifted illegally. Agents have also tracked Indians who kill bald eagles for their feathers. "This commercialization of wildlife has been prevalent in Africa, Europe and Asia for years," said Terry L. Grosz, the Fish and Wildlife Service's enforcement chief in the Rockies. "We're just finally catching up to [it]."

The reason for the rise of poaching in the United States is straightforward: profitability. The Colorado ring allegedly hunted black bears as a sideline to obtain their gallbladders and paws—two items prized by Asians. Small enough to fit inside film canisters, the bladders are sold by hunters to dealers in the United States for $100 apiece and retailed in Asia for $3,000, where in dried form they are marketed as medicine and aphrodisiacs. Bear-paw pads are sold as food (a dinner can run to $150), and grizzly claws for necklaces. Until late in 1981, when well-publicized arrests by the California Department of Fish and Game seemed to scare off much of the trade, illegal hunts were making serious inroads into the California bear population.

Aphrodisiacs: The Asian herbal-medicine market accounts for what is perhaps the West's most persistent poaching problem: the trade in elk antlers. Sold to Asians both here and abroad, ground elk antlers are used in everything from vitamins to aphrodisiacs. Every year representatives of Korean buyers make their way to tiny Gardiner, Mont., which abuts Yellowstone National Park; they assemble at the Blue Goose Bar—the hangout for "horn hunters." Hunters get $6.50 a pound, with the average set of antlers weighing 25 pounds. Dealers make their profits, too: ground antlers sell for $42 an ounce in San Francisco, says one agent who estimates that $1.5 million to $2 million worth comes out of the Yellowstone area each year.

Grizzly paws: Claws make prized jewelry



Antler hunters can be ruthless. The U.S. attorney in Cheyenne, Wyo., is expected to announce soon the indictment of poachers who last year allegedly chased to exhaustion at least eight winter-weakened elk inside Yellowstone. After hacking the antlers off their heads, they left them to bleed to death. In most cases, though, elk antlers can be obtained without killing. Horn hunters sneak around Yellowstone and neighboring areas each spring, collecting the antlers the bull elk have shed. Federal law prohibits the removal of any natural features from a park, and the rangers take that to include the cast-off antlers. This spring Yellowstone recruited rangers from other parks—raising their numbers from two to seven—and set up decoy piles of antlers with hidden cameras to try to catch the poachers in the act. The result: 28 arrests, about half the number of horn hunters apprehended in 1982. "They're getting better every year," grumbles ranger Randy King.

With current penalties for poaching rarely exceeding a light fine, the only way to curtail it is to prohibit the buying and selling of game-animal parts. That has already been done in California and Oregon. However, Colorado, Wyoming and Montana, home to great herds of big game, allow trophies or antlers to be sold provided they are taken legally—and the contrary can seldom be proved. For the game police, then, the only recourse is undercover work. "The resource we are protecting is limited," says one agent. "So I want these guys to know something—their next partner may be us."

MICHAEL A. LERNER with JEFF B. COPELAND in Denver

Meagher County News

White Sulphur Springs, Montana 59645—Thursday, December 6, 1984 PRICE 25 CENTS

Unscrupulous hunting consultant . . .

Hunting license transfers bring justice court charges

"This is just the tip of the iceberg" stated Montana Department of Fish, Wildlife and Parks Warden Gene Clark in describing the uncovering of a Michigan hunting consultant's transfer of nonresident hunting licenses to his clients who were unable to obtain the proper licenses in legal state drawings. Clark said that he is presently heading up an investigation which involves game wardens in Kansas, Michigan, Wyoming and Montana and that more charges will be forthcoming as the investigation unravels additional evidence.

Dennis Salsgiver of Davison, Michigan, who operates Grand Slam Hunting Consultants, plead guilty to a charge of transfer of license, a misdemeanor, in Justice of the Peace Court of Vernon Meyers Monday, November 26. A second charge of solicitation to hunt a big game animal within the State of Montana without first having obtained a proper license or permit to do so, was dropped in a plea bargain agreement reached with Meagher County Attorney John V. Potter. Salsgiver was fined $500 and forfeited hunting and fishing privileges and licenses within the State of Montana for a period of 24 months after date of his conviction.

Two hunters from Overland Park, Kansas, an outfitter from Livingston, and a couple from Flint, Michigan were involved in the original case against Salsgiver.

Clark went on to say "It looks like transfer, even buying and selling of the B10 $300 non-resident license may be more than just an occasional happening, but a thriving black market. With the limit of 17,000 and the speed of sell out, they will even be more endeared to the hunter of the future with no limit to the imagination of the unscrupulous booking agent like Salsgiver."

Clark further pointed out that these agents, like a travel agent, furnish a valuable service to both the hunter and the outfitter, but that there is no room in the hunting world for the dishonest types. "Clean up or stay out of Meagher County" was his comment.

Warden Clark went on to describe how the investigation uncovered Salsgiver's operation and the ultimate charges brought against him.

The first time that Warden Clark learned of Dennis Salsgiver was during a conversation with rancher-outfitter Bill Galt while Clark and Galt were discussing the 1984 hunting season and an upcoming trophy auction of confiscated items to be held in Bozeman. Galt told Clark that he was working with a booking agent named Dennis Salsgiver and that he also had expressed an interest in the trophy auction.

Galt, Clark and rancher Bill Loney made plans to attend the trophy auction, but when time came to go, Galt and Loney were unable to attend. Clark on his day off, his wife Alice and Pam Loney, Bill's wife, attended the sale.

During the sale a person doing a lot of bidding and buying attracted Clark's attention and upon checking with a clerk at the auction Clark learned that the buyer was Dennis Salsgiver. Eleven different lots at the auction went to Salsgiver, including a black bear cape, a mountain lion hide, five bighorn sheep horns and four bighorn sheep capes for which he paid a total of $1,635.00.

Later on in late June or July, when Clark was discussing the upcoming fall hunt with Bill Galt, the name of Salsgiver again came up. Salsgiver had promised to book a certain number of whitetail deer hunts for Galt for a free deer hunt for himself. When Galt contacted Salsgiver to see if he could still find a hunter or two, he was informed that it would be no problem. Galt questioned Salsgiver about the fact that all the licenses had been sold, but he was told that would not be a problem.

Early in September Clark went on to state that he had learned that outfitter Doug Caltrider was also booking hunters through Dennis Salsgiver, doing business as Grand Slam Hunting Consultants. Part of the booking bargain was also a free hunt with Caltrider.

A young couple from Flint, Michigan, Thomas and Nancy Durance, booked hunts through Dennis Salsgiver for elk and mule deer with Doug Caltrider and at the same time booked a whitetail deer hunt with Bill Galt.

The Durances, who had obtained their B10 non-resident elk and deer tags during the first come, first served non-resident quota of 17,000 licenses, were instructed by Salsgiver to apply for Deer B tags for Area 446, the whitetail area where they wanted to hunt with Galt. After the drawing, when the Durances found out that they were unsuccessful in obtaining the Deer B tags, they contacted Salsgiver, expressing concern over the fact that they already had booked the whitetail deer hunt, but now had no tags to hunt with.

Salsgiver told them at that time that tags would be no problem, and before the Durances left for Montana, Salsgiver personally gave Thomas Durance a nonresident Montana Hunting license that had been issued to Ralph E. Dawson of Overland Park, Kansas. The license was a B10 non-resident license, with all tags attached plus a 1984 archery stamp on the back. He also stated to Durance that he would make sure that Galt would have the other license for them when they arrived to hunt whitetail deer.

Salsgiver travelled to Montana to hunt whitetails with Galt before the Durances arrived. Salsgiver hunted with legal Montana licenses, a B10 $300 non-resident license and a non-resident Deer B tag for Area 446 good for either-sex whitetailed deer. At no time was any discussion had that he would be leaving any sort of license for the Durances during his deer hunt with Galt.

The Durances hunted with Doug Caltrider for their booked hunts, with Thomas Durance killing a 5x5 bull elk and a small whitetail buck and Nancy Durance killing a 4x4 bull elk and a 5x5 mule deer buck. With the taking of the elk and deer with Caltrider, the legally issued licenses of the Durances were used up. Caltrider recorded the names of the Durances, their license numbers and the type of game taken in his outfitter's log, required to be kept and submitted by all licensed outfitters in the State of Montana.

Although Salsgiver had been in the area hunting with Galt, he did not hunt with Caltrider.

After the deer and elk hunt with Caltrider, on November 5, the Durances and Caltrider met with Bill Galt for the whitetail deer hunt. The subject of deer tags came up in the conversation and Galt asked to see their licenses. At that time the license made out to R. E. Dawson was presented with the statement that Galt was supposed to have the other license for them.

The Durances stated that Galt was surprised and upset when the Dawson license was presented and the statement made that he was supposed to have a deer license for them. He told them that he was not taking them hunting without valid tags or with someone else's tags.

(Continued on Page Two)

Illegal-hunting sting hauls in 34 suspects

By LORNA THACKERAY
Of The Gazette Staff

Thirty-four people, including 11 Montanans, were arrested Thursday morning at the conclusion of a two-year undercover operation aimed at illegal hunting and trading in big game animals.

Some of the arrests resulted from an undercover tanning and taxidermy business operated in Colorado by the U.S. Fish and Wildlife Service. Others stemmed from illegal hunts arranged in Montana just outside the Yellowstone Park area.

"They've been bleeding those mountains around here," one Sweet Grass County official said after the arrests. He said illegal hunting had a significant impact on the number of animals found in the area.

Seventeen felony warrants and one misdemeanor complaint were filed by Pete Dunbar, U.S. attorney for Montana, in "Operation Trophy Kill." The remaining indictments came from Colorado. People from nine states will be charged.

U.S. Magistrate Jack Shanstrom arraigned 13 defendants Thursday in Livingston. Bonds for the suspects ranged from $25,000 to $350,000. These defendants will enter pleas to the changes before U.S. District Judge James Battin 10 a.m. Tuesday.

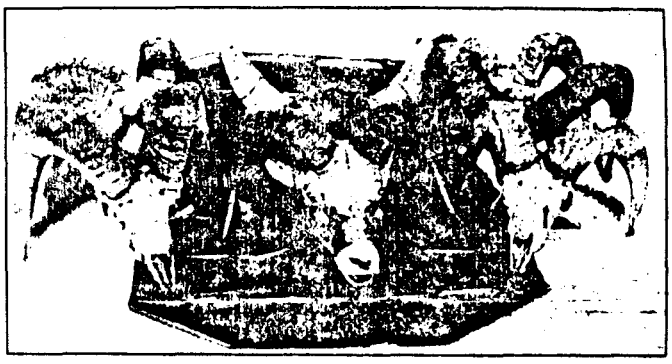
This is the second major wildlife case brought in Montana in the last four months. More than 30 people were arrested at the end of June in connection with an undercover investigation involving smuggling of endangered birds of prey.

Among those arrested was Loren J. Ellison, 33, of Livingston, who was charged with 14 counts of illegal sale and transportation of wildlife. Bond for Ellison was set at $350,000. Ellison was arrested on similar charges last month in a sting investigation by Sweet Grass and Park County officials.

According to Dunbar, federal agents used the tanning and taxidermy business to detect smuggling of wildlife skins into the United States and to uncover trade in protected species of big game and rare birds.

Some charges allege illicit trade to the Orient, where certain wildlife parts, such as elk antlers in velvet, are believed to have medicinal and aphrodisiac powers. He said federal agents also posed as hunters to gather evidence on illegal hunts organized by some of the defendants.

(More on Trophy, Page 12A)



Three Bighorn sheep skulls and heads, above, taken or possessed illegally were part of the evidence gathered in Operation Trophy Kill. Also seized in the sting were the two spotted skins of endangered cheetah and jaguar, left, smuggled into the United States.

U.S. Fish & Wildlife Service

Continued stories

Trophy

From Page One

Most of the Montana charges involve interstate transportation of illegally taken wildlife, including the following species: bighorn sheep, mountain goats, elk, mule deer, black bear, antelope, mountain lion, bobcat, golden eagle and lynx.

Many of the charges were filed under the Lacey Act. Under the act, federal charges can be filed using the guidelines of state law, including regulations on hunting seasons and licenses.

DUNBAR SAID the investigators discovered that selling some animal parts is a lucrative business.

"Bighorn sheep skulls might sell on the black market for as much as $5,000," he said. "Finished and tanned tiger and jaguar skins can sell for $3,000 to $4,000. Bear gall bladders — prized in the Far East for their supposed medicinal and aphrodisiacal values — can bring $3,000 a pound when properly ground, while other bear parts are used in bearpaw soup, which is considered a delicacy."

The Colorado charges involve more exotic animals including tigers, jaguars, leopards, Florida panthers and the American crocodile. These animals are prized for their skins.

The Montana indictments were handed down Sept. 26 by a grand jury convened in Billings. Indictments allege that violations took place between Jan. 7, 1983, and June 22 of this year. Penalties range as high as five years in jail and/or $20,000 fines.

THE OPERATION REQUIRED the cooperation of several federal, state and local agencies, Dunbar said. Those participating included U.S. Fish and Wildlife; National Park Service; Montana Fish, Wildlife and Parks; U.S. Marshalls Office; U.S. Forest Service; Livingston Police Department; and sheriff's offices in Park, Sweet Grass, Broadwater and Gallatin counties.

Each agency participated in the investigation and arrests, as well as the searches conducted in the investigation.

Those arraigned by Judge Shanstrom Thursday were:

- Loren Jay Ellison, 33, Livingston, charged with 14 counts of violating federal and state laws against taking, transporting, buying or selling of illegally taken game animal parts, including golden eagle, elk, lynx, mountain goat and mule deer parts. He is also charged with five counts of conspiring to violate federal and state game laws by offering guide services without a license and taking big game animals in violation of federal and state regulations. His bond was set at $350,000.
- Claudie Lee Buttrell, 25, Big Timber, charged with five counts of conspiracy. Bond was set at $50,000.
- Victor Lee Gibby, 26, Big Timber, charged with two counts of violating state and federal game laws regarding mountain goats and black bear parts. Bond was set at $50,000.
- Ralph Wilfred Clark, 44, Big Timber, charged with one count of violating federal and state game laws regarding mountain lion parts. Bond was set at $50,000.
- Timothy Glen Dauenhauer, 33, Livingston, charged with one count of violating federal and state game laws, regarding big horn sheep parts. Bond was set at $25,000.
- Howard "Hap" Roberts, Big Timber, charged with one count of violating federal and state game laws regarding big horn sheep parts. Bond was set at $25,000.
- Michael Douglas Furtney, no address listed, charged with a misdemeanor violation. Bond was set at $25,000.
- Docia Pearson Jole, 26, Townsend, charged with one count of violating federal and state game laws regarding illegally taken big horn sheep and antelope parts. Bond was to be set later.
- Danielle Yvette Delorme, Livingston, charged with one count of violating game laws regarding illegally taken elk parts. Bond was to be set later.
- Robert George Johnson, 37, Alliance, Neb., charged with one count of conspiracy. Bond was to be set later.
- Terry Cray Stenberg, 29, Livingston. No charges were available. Bond was set at $100,000.
- Clyde Edwin Chapel, 26, Provo, Utah. No charges were available. Bond was to be set in Utah.

ALSO ARRESTED WERE Lloyd John Jole, 40, and George Calvin Smith, 43, both of Townsend. Still at large are Harvey Nels Amundsen, 26, Big Timber; Roy Roger Hankins, 39, no address given; and Tom Williams, no age or address given.

Another suspect, Ken Fike, will be served with court papers in Arizona, where he is in prison, Dunbar said.

Prosecution will be handled by Robert L. Zimmerman, chief prosecutor for the office in the Montana U.S. attorney's office, and Chris Nuechterlein, of the U.S. Department of Justice.

Colorado authorities issued this list of 17 people charged there:

Tillman Niblett, a Davis, Okla., international hunting and fishing guide, for unlawful sale and transportation into this country of endangered wildlife; Brian Gaisford, an employee of the Hemingway African Gallery in New York, for the same charges; Steven J. Ackerman, a Pensacola, Fla., taxidermist, for unlawful sale and offer of sale of endangered wildlife and migratory birds; and Morton J. Greene, of Mount Lebanon, Pa., for conspiracy to defraud the government and unlawful sale of endangered wildlife.

Also charged were Jung T. Wang, president of U-JIN Enterprises of San Francisco, for unlawful transportation of a polar bear and unlawful purchase of bear gall bladders; Kyune Hyong Kim and Peter Kim, operators of Pescal Enterprises of Carson, Calif., for unlawful purchase of bear gall bladders; and Thomas Radoumis, owner of DeJon's Taxidermy in Rosemead, Calif., for unlawful sale and transportation of endangered wildlife.

CHARGES OF CONSPIRACY to smuggle the skins of endangered wildlife into the United States were filed against Steven and Connie Murray, operators of Trips Unlimited in Edinburg, Texas; Michael Maynard, McAllen, Texas, operator of Odyssey Travel Service; and Sergio Nocedal, a customs agent in Reynosa, Mexico.

Douglas Gish, operator of Head's West Taxidermy in Denver, and Warren Parker of Blue Springs, Mo., face a charge of unlawful purchase of merchandise illegally brought into the United States; Philip Turnbull of Oakland, Ore., is charged with unlawful sale of wildlife; Kurt Fox, operator of Fox Studio Taxidermy in Cold Springs, N.Y., with unlawful purchase of endangered wildlife; and John R. "Foxy" Davis, of Silver Springs, Fla., with unlawful purchase of endangered wildlife.

Mille said all the defendants except Nocedal, Green, Davis and Wang have been arrested. Gish was issued a summons to appear in court and was not arrested, he said.

Bar owners protest more wine, beer outlets

By The Associated Press

If Initiative 94 is approved by the voters next Tuesday, drunken driving will increase in Montana and it will be more difficult to control underage drinking, a spokesman for the Committee to Keep Montana's Limit on Beer and Wine says.

"We respect the right of people to enjoy restaurants where beer and wine aren't served, and we think I-94 would greatly restrict the number of restaurants with non-drinking, family atmosphere," committee spokesman Don Larson said Tuesday.

Larson, a Helena restaurant-motel-bar owner, said the committee is composed of members of the Montana Tavern Association.

The initiative, which has been promoted by members of the Montana Libertarian Party, would abolish the quota system on beer and wine licenses for restaurants and other businesses capable of selling meals to the public. Establishments holding licenses under the present quota system would be entitled to a transferable credit on their state taxes for any loss in the fair market value of that license.

Currently, Larson said, "licenses are hard to get and they represent a considerable investment. Business people who have licenses are more likely to obey underage drinking laws — and avoid problems — than if licenses were just handed out right and left without effort or investment. People who have to work harder to get licenses work harder to keep them."

And Larson said the Libertarians say they are against any government at all, but are taking advantage of the Fairness Doctrine in advertising, which established that radio and television stations must give free time to opposition views.

Stations sometimes charge double to initiative opponents to cover the free time they must give initiative supporters, Larson said.

AROUND MONTANA

Hunter shot by his own guide

HAMILTON, Mont. (AP) — A California man was shot by his guide, who mistook him for a deer, while hunting south of Hamilton on Tuesday, Ravalli County Sheriff Harold Dye said.

Leo P. Smith, 57, listed in stable condition in Missoula's St. Patrick Hospital.

Hamilton area guide Phil Taylor submitted a statement to authorities that said he was hunting with Smith and Royce Cornelson, both of Bakersfield, Calif.

Taylor said he fired two shots from his .30-.30 rifle at what he thought was a deer. The first shot missed, but the second bullet entered below Smith's left shoulder and pierced his arm.

Dy[illegible]d the bullet missed Smith's spine and [illegible] but shattered the bone in his un[illegible] his orange hunting vest and other clothing to relieve himself. Smith said the first shot sprayed dirt near him, and he yelled before Taylor fired the second time, according to Cornelson.

Smith was conscious after he was shot and occasionally joked with rescue personnel until he was loaded aboard a helicopter for the flight to Missoula.

Dye said the incident appeared to be an accident and said he didn't expect to file charges.

The state's general big game season opened in western Montana on Sunday.

Another shooting was reported in Jefferson County, west of Boulder. Bob Birkelo of Butte was reported in [illegible] condition in St. James Com[illegible] had been hunting with his brother-in-law, Dennis Axell of Helena.

Doyle said the two parked their pickup truck near Interstate 15. Birkelo got out of the truck to look for deer and get a drink of water. Axell lifted a level-action rifle from the truck's gun rack, and it went off, firing a round through the right side of the truck, hitting Birkelo with a bullet fragment above his left eye, Doyle said.

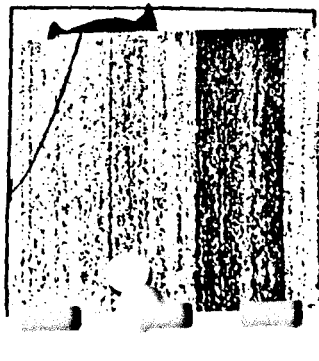
Doyle termed it a "100 percent accidental gunshot wound."

Highway funding about the same

The Federal Highway Administration has informed the state Department of Highways that it will receive about $66 million during the 1983 fiscal year — about the same level as for the last fiscal year.

Department Director Gary Wicks said Tuesday that while the new funding will continue some of the state's highway projects, it is about a $20 million reduction from the federal funding levels prior to 1982.

The separate funding of the interstate system at about [illegible]



Ken Bisio

Photos © Laurance Aiuppy

Illegal spoils in the Rockies: Animal trophies seized by the federal government, an agent examines a cache of bighorn sheep skulls

Stingtime for Poachers

They are accused of offering the most-prized trophy animals of the Rockies, and for prices ranging from $2,500 to $20,000—depending on the beast—a kill was guaranteed. How could a hunting business make such a promise? By guiding clients onto public land after the fall hunting season closed, when elk, bighorn sheep, mountain goats and mountain lions are at lower elevations and much less on their guard. Last week, thanks to five undercover agents for the Fish and Wildlife Service, the business abruptly went out of business. Seven hunting guides, including Denver police detective Dale Leonard, were indicted in Colorado, and nine more indictments are expected in Montana. State and federal agents claim they have cracked the biggest poaching ring ever uncovered in the Rockies.

The Colorado operation illustrates the service's new emphasis on "sting" work. In the past, Fish and Wildlife agents and their state counterparts looked on themselves simply as game wardens, keeping an eye out for the rural poacher who killed to feed his family. With the upsurge in commercial exploitation of wildlife on public land, however, that attitude is changing rapidly. In recent years, federal agents have been deployed undercover to combat poachers in Alaska, where walruses are being hunted for their tusks; in California, where Indians have been accused of sweeping king salmon from streams with gill nets, and around Lake Erie, where in one case 1 million pounds of walleye were lifted illegally. Agents have also tracked Indians who kill bald eagles for their feathers. "This commercialization of wildlife has been prevalent in Africa, Europe and Asia for years," said Terry L. Grosz, the Fish and Wildlife Service's enforcement chief in the Rockies. "We're just finally catching up to [it]."

The reason for the rise of poaching in the United States is straightforward: profitability. The Colorado ring allegedly hunted black bears as a sideline to obtain their gallbladders and paws—two items prized by Asians. Small enough to fit inside film canisters, the bladders are sold by hunters to dealers in the United States for $100 apiece and retailed in Asia for $3,000, where in dried form they are marketed as medicine and aphrodisiacs. Bear-paw pads are sold as food (a dinner can run to $150), and grizzly claws for necklaces. Until late in 1981, when well-publicized arrests by the California Department of Fish and Game seemed to scare off much of the trade, illegal hunts were making serious inroads into the California bear population.

Aphrodisiacs: The Asian herbal-medicine market accounts for what is perhaps the West's most persistent poaching problem: the trade in elk antlers. Sold to Asians both here and abroad, ground elk antlers are used in everything from vitamins to aphrodisiacs. Every year representatives of Korean buyers make their way to tiny Gardiner, Mont., which abuts Yellowstone National Park; they assemble at the Blue Goose Bar—the hangout for "horn hunters." Hunters get $6.50 a pound, with the average set of antlers weighing 25 pounds. Dealers make their profits, too: ground antlers sell for $42 an ounce in San Francisco, says one agent who estimates that $1.5 million to $2 million worth comes out of the Yellowstone area each year.

Grizzly paws: Claws make prized jewelry

Antler hunters can be ruthless. The U.S. attorney in Cheyenne, Wyo., is expected to announce soon the indictment of poachers who last year allegedly chased to exhaustion at least eight winter-weakened elk inside Yellowstone. After hacking the antlers off their heads, they left them to bleed to death. In most cases, though, elk antlers can be obtained without killing. Horn hunters sneak around Yellowstone and neighboring areas each spring, collecting the antlers the bull elk have shed. Federal law prohibits the removal of any natural features from a park, and the rangers take that to include the cast-off antlers. This spring Yellowstone recruited rangers from other parks—raising their numbers from two to seven—and set up decoy piles of antlers with hidden cameras to try to catch the poachers in the act. The result: 28 arrests, about half the number of horn hunters apprehended in 1982. "They're getting better every year," grumbles ranger Randy King.

With current penalties for poaching rarely exceeding a light fine, the only way to curtail it is to prohibit the buying and selling of game-animal parts. That has already been done in California and Oregon. However, Colorado, Wyoming and Montana, home to great herds of big game, allow trophies or antlers to be sold provided they are taken legally—and the contrary can seldom be proved. For the game police, then, the only recourse is undercover work. "The resource we are protecting is limited," says one agent. "So I want these guys to know something—their next partner may be us."

MICHAEL A. LERNER with JEFF B. COPELAND in Denver

STANDING COMMITTEE REPORT

March 27, 1987 19

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House bill No. 152

Third reading copy (Blue color)

PROPERTY TAXATION OF LAND OWNED BY DEPARTMENT OF FISH, WILDLIFE, AND PARKS

Representative Francis Bardanouve (Senator Elmer Severson)

Respectfully report as follows: That House Bill No. 152

be amended as follows:

1. Page 2, lines 1 and 2.

Following: "request"

Strike: remainder of line 1 through "approved" on line 2

Insert: ". The director may disapprove a request only if he finds it to be inconsistent with this section. If the director disapproves a request, he shall return it, with an explanation detailing the reasons for the disapproval, to the appropriate county treasurer for correction. If the director approves a request, he"

2. Page 2, lines 12 and 13.

Following: "fund"

Strike: remainder of lines 12 and 13

Insert: "acquired and managed for the purposes of Title 23, chapter 1."

AND AS AMENDED
BE CONCURRED IN-

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith Chairman.

STANDING COMMITTEE REPORT

March 19, 1987 ..... 19.....

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 152

Third reading copy (Blue)
color

PROPERTY TAXATION OF LAND OWNED BY DEPARTMENT OF FISH, WILDLIFE AND PARKS

Representative Bardanouve (Senator Severson)

Respectfully report as follows: That House Bill No. 152

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith
Chairman.

STANDING COMMITTEE REPORT

March 27, 1987
19

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 211

Third reading copy (Blue color)

PROHIBIT HARASSMENT OF SPORTSMEN

Representative Gerry Devlin (Senator Jergeson)

Respectfully report as follows: That House Bill No. 211

be amended as follows:

1. Page 2.

Following: line 2

Insert: "(4) Nothing in this section prohibits a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment."

AND AS AMENDED
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith
Chairman.

STANDING COMMITTEE REPORT

March 27, 1987
19

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 322

Third reading copy (Blue color)

ESTABLISH DUI BLOOD ALCOHOL LEVELS/CHEMICAL TESTING FOR BOAT OPERATORS

Representative Ralph Eudaily (Senator Wm. Yellowtail)

House Bill 322

Respectfully report as follows: That No.

be amended as follows:

1. Page 4, line 13.
Insert: (5) As used in 23-2-523(2), the term "under the influence" shall have the meaning provided in 61-8-401(3).

2. Page 4, following line 24.
Insert: "NEW SECTION. Section 6. Coordination instruction. If House Bill 153, including the section defining the phrase "under the influence" is not passed and approved, section 2(5) of this act is void."
Renumber subsequent section.

Amendments to HB 322
e:\7086c

AND AS AMENDED
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith
Chairman.

STANDING COMMITTEE REPORT

March 27, 1987
19

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 329

Third reading copy (Blue)
color

RESTITUTION FOR ILLEGAL KILLING OF WILDLIFE

Representative Bob Ream (Senator Wm. Yellowtail)

Respectfully report as follows: That House Bill No. 329

be amended as follows:

1. Page 1, line 18.
Strike: "SIX POINT OR LARGER BULL"

2. Page 1, line 20.
Strike: "FOUR-POINT OR LARGER BUCK"
Following: "antelope,"
Insert: "antelope,"

3. Page 1, line 21.
Following "sturgeons"
Insert: "pallid and white"

4. Page 2, line 2.
Strike: "AND" and "TURKEY"

AND AS AMENDED
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith
Chairman.

STANDING COMMITTEE REPORT

March 27, 1987 19

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 406

Third reading copy (Blue color)

LICENSING OF OUTFITTERS BY BOARD OF OUTFITTERS IN DEPARTMENT OF COMMERCE

Representative Ed Grady (Senator ~~Jergeson~~)

Respectfully report as follows: That House Bill No. 406

be amended as follows:

1. Title, line 14.
Following: "ACT"
Insert: "AND A TERMINATION DATE"

2. Page 2, lines 21 to 23.
Following : "OUTFITTERS"
Strike: remainder of line 21 through "IS" on line 23
Insert: "who are"

3. Page 13, line 24.
Insert: "NEW SECTION. Section 14. Termination date. This act terminates June 30, 1991."

Amendments to HB 406
e:\7086d

AND AS AMENDED
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith Chairman.

STANDING COMMITTEE REPORT

March 27 19 37

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 465

Third reading copy (Blue color)

CAPTURE OF GOLDEN EAGLES FOR FALCONRY

Representative John Cobb (Senator Severson)

Respectfully report as follows: That House Bill No. 465

BE CONCURRED IN

DO PASS

DO NOT PASS

Senator Ed Smith Chairman.

STANDING COMMITTEE REPORT

March 27, 1987 19

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 535

Third reading copy (Blue color)

REVISE NUMBER AND ALLOCATION OF NONRESIDENT COMBINATION HUNTING LICENSES

Representative Orval Ellison (Senator Hirsch)

House Bill 535

Respectfully report as follows: That No.

be amended as follows:

1. Title, lines 7 through 9.
   Following: "OF"
   Strike: remainder of line 7 through line 9
   Insert: "REVISING THE NUMBER OF NONRESIDENT COMBINATION HUNTING AND FISHING LICENSES AUTHORIZED FOR SALE;"

2. Title, line 12.
   Strike: "6,000"
   Insert: "3,000"

3. Title, line 13.
   Following: line 12
   Strike: line 13 through line 15 in their entirety
   Insert: "PROVIDING FOR ISSUANCE OF LICENSES TO APPLICANTS BY A RANDOM DRAWING; AND"

4. Title, lines 16 and 17.
   Following: "MCA"
   Strike: remainder of line 16 through "DATE" on line 17

5. Page 2, lines 8 through 10.
   Strike: subsection (2) in its entirety
   Insert: "(2) The commission shall establish the number of Class B-11 licenses that may be sold each year. The number may not exceed 3,000 in any license year."

~~DO PASS~~

~~DO NOT PASS~~

Chairman.

March 27, 1987
..... 19.....

6. Page 2, line 11 through line 4 on page 4.
Strike: section 2 in its entirety
Insert: "NEW SECTION. Section 2. Issuance of Class B-10 and Class B-11 licenses. (1) Application for Class B-10 and Class B-11 licenses may be made to the department commencing on the first Tuesday of January of the year for which the licenses are issued. Except as provided in subsection (4), such licenses must be issued by a random drawing among all applicants to be held on the first Tuesday of the following February.

(2) The department shall provide for party drawings for applicants so requesting, with not more than four applicants drawn together.

(3) The names and addresses of successful license applicants must be made available to the public within 1 week after the drawing.

(4) If the number of authorized licenses exceeds the number of applications received by the date of the drawing, the remaining licenses must be sold thereafter by the department in the order that applications are received."

7. Page 5, lines 8 and 9.
Strike: Section 6 in its entirety.

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AND AS AMENDED
BE CONCURRED IN

Senator Ed Smith

STANDING COMMITTEE REPORT

March 27, 1987 19.....

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 730

Third reading copy (Blue color)

REQUIRE CERTIFICATES OF OWNERSHIP FOR MOTORBOATS AND VESSELS

Representative Bob Bachini (Senator Greg Jergeson)

Respectfully report as follows: That House Bill No. 730

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith Chairman.