

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on March 31, 1989, at  
8:05 a.m.

ROLL CALL

Members Present: All members were present with the following  
exception:

Members Excused: Rep. William Boharski

Members Absent: None.

Staff Present: Julie Emge, Secretary  
John MacMaster, Legislative Council

Announcements/Discussion: None.

HEARING ON HOUSE BILL 446

Presentation and Opening Statement by Sponsor:

Sen. Bill Yellowtail, Senate District 50 stated that he would like to open the hearing with a brief background of SB 446. He stated that this stems fundamentally from the Helgate Treaty of 1855. That treaty reserved broad rights for hunting and fishing for members of the Confederated Salish and Kootenai Tribes. It is, in fact, one of the most specific treaty's in the country. However, details remain needing definition. A certain amount of confusion and uncertainty remain over details. This arises primarily over present day mixed jurisdiction that exists within the boundaries of that particular reservation . . . as it is typical of many reservations. Sen. Yellowtail explained that with that background, they are not creating new law by any means. They are only amending the existing statute that goes back to 1947. It declared at that time in response to the Helgate Treaty and the special relationship that Montana has with the Confederated Salish and Kootenai Tribes, common advantage to seek cooperation in the matter of hunting and fishing with the Flathead reservation. In 1981, the enactment of the State Tribal Cooperative Agreements Act, now contained in title 18, chapter 11, simply adds further parameters to the notion of cooperative agreements between tribes and the State of Montana and its political subdivisions. Subsequent to that, in 1986 the Confederated Salish and Kootenai Tribes enacted their ordinance 44-D asserting tribal resource management authority over all lands within the exterior bounds of the reservation. For

the past 2 years, the Montana Department of Fish Wildlife and Parks has been negotiating with the Confederated Salish and Kootenai Tribes, and basic agreement has been reached under former Governor Schwinden's administration. The proposed bill is enabling legislation. It's a fine tuning of the existing law from 1947 that will accommodate the terms of the agreement that has been struck between the State of Montana and the Confederated Salish and Kootenai Tribes. Sen. Yellowtail commented that this bill deals with two general considerations: First, the matter of fish and wildlife management within the Flathead Indian Reservation; and secondly, the agreement deals with clarification of off reservation hunting rights which are reserved very broadly and very assertively by the Helgate Treaty of 1855. That issue has lacked definition and the tribes and the state are willing at this time to provide some definition and some parameters to that off reservation hunting right.

Sen. Yellowtail, recalling the present Governor's State of the State Address, Governor Stephens expressed his commitment to unity and cooperation between the tribes and the State of Montana. That then, provides us the basis for the seeking of common ground. This bill is not the agreement itself. It is enabling legislation only. Sen. Yellowtail presented to the committee the actual agreement as it stands today (EXHIBIT 1). He commented that the agreement is the objective, but it is not actually the substance of the bill.

Testifying Proponents and Who They Represent:

Rep. Ervin Davis, House District 53  
Rep. Bob Gervais, House District 9  
Governor Ted Schwinden  
Jim Flynn, Former Dir. of the Dept. of Fish, Wildlife and Parks  
Sen. Dick Pinsoneault  
Mickey Pablo, Chairman, Confederated Salish and Kootenai Tribes  
Joe Dupuis, Execut. Tribal Secretary, Confederated Salish and Kootenai Tribes  
Donovan Bolt, Director of Bureau of Indian Affairs  
Ron Marcoux, Assoc. Dir. of the Dept. of Fish, Wildlife and Parks  
Sen. Paul Rapp-Svrcek, Senate District 26  
Don Peterson, Lake County Commission  
Sen. Ethel Harding, Senate District 25  
Rick Smith, Polson Businessman  
Alan Mikkelsen, Self  
Glen Marx, Policy Aid for Gov. Stephens  
Rep. Angela Russell, House District 99  
Brenda Desmond, Attorney at University of Montana, Indian Law Clinic  
Elwin Bennington, Lake County  
Kim Reineking, President, West Slope Chapter of Trout Unlimited  
Don Alley, National Trout Unlimited  
Don Chance, Montana Wildlife Federation  
Stan Bradshaw, Montana Council of Trout Unlimited

Dick Wollin, Polson Resident  
Renee Roullier, Member of the Confederated Salish and Kootenai Tribes  
Lucille Otter, Ronan Resident  
Cathi Dupuis Shortman, Member of the Confederated Salish and Kootenai Tribes  
Rep. Vivian Brooke, Margaret Sterling Brooke

Proponent Testimony:

Rep. Ervin Davis, House District 53 presented the committee with written testimony (EXHIBIT 2) accompanied by proposed amendments for the committee's consideration (EXHIBIT 3).

Rep. Gervais, House District 9 stated that he strongly supports this legislation and for the record, submitted the endorsement supporting this bill from the Montana-Wyoming Tribal Association consisting of nine tribes (EXHIBIT 4). They recommend HB 446 do pass with no amendments.

Governor Ted Schwinden expressed that the challenge that the committee needs to consider as they deal with SB 446, is that they have to find a way to deal with the explosive issue of the management of Fish and Game resources within Montana reservations. Additionally, they cannot accept, neither can they afford litigation and the time and the dollars that it takes to hopefully achieve some resolution over a period of time. SB 446 was thoroughly discussed in the Senate committee, and because Jim Flynn was the Director of the Dept. of Fish Wildlife and Parks and played a major and critical role in the negotiations, Gov. Schwinden asked him to explain to the committee the process that was involved and the critical importance of this piece legislation in enabling the opportunity for the state to enter into this first of its kind agreement with the Salish and Kootenai Tribes in western Montana.

Jim Flynn, former Director of the Dept. of Fish Wildlife and Parks stood in support of SB 446 and presented written testimony listed as EXHIBIT 5.

Sen. Dick Pineseault stated that he represents a substantial portion of Lake County as well as a substantial portion of Northern Missoula County. Without a doubt the legislation that is being proposed presents issues of controversy of high emotion and of critical long range consequences, especially to those tribal and non-tribal residence of the Flathead reservation. Sen. Pineseault commented that as an attorney engaged in the practice of law on the reservation and with family ties that go back to the turn of the century, he does not speak from a platform of ignorance or insensitivity to parties on opposite sides of these issues. It is with cautious optimism that he appears before the committee in support of SB 446. He stated that his reasons for supporting this legislation are as follows: For the

first time in history the Confederated Salish and Kootenai Tribes, a meeting was held between the entire Montana legislative delegation from the Flathead reservation and the Confederated Salish and Kootenai Tribal Council on the 24th of February 1989. Tribal council gave the delegation a one hour slot on their agenda, during which time SB 446 and the proposed agreement were discussed. Two significant amendments have been made to SB 446. One in the committee and another one on the floor of the Senate that addressed open and unclaimed land off the reservation. Open and unclaimed land are of course further identified as land operated by the Bureau of Land Management and forest service lands. During the Easter break, on Friday, the 24th of April another meeting was held in Lake County in Polson at the request of Rep. John Mercer at which time the public was invited to present their comments concerning SB 446. Present at this meeting were the members of the Lake County delegation, the chairman of the Confederated Tribes, Mickey Pablo and Mr. John Carter from the legal staff of the tribe. That meeting was well attended and provided for those residents of the reservation to voice concerns on SB 446. That meeting was productive and provided additional dialogue prior to continuing the legislative process.

Sen. Pineseault stated that he is personally committed to the negotiation process in these matters and he takes that position for the following reasons: The resident citizens of the reservations and the United States have been waiting 200 years for Congress to address issues of great concern such as those that appear in SB 446. None have been forth coming nor is any to his knowledge on the horizon. As citizens of Indian reservations, they have been forced to look to the Supreme Court of the United States for which should appropriately be legislated decisions at the national level. Substituting the judicial process for the legislative process is costly, time consuming, generally addresses a single issue and results in judge made law that no one who is affected is really very happy with. Who better qualified to resolve issues than those who must live with them on a daily basis. Although the problems are critical and emotional, the negotiation process will, with good faith efforts on the part of all citizens affected, result in a long term solution to these crucial problems. The Confederated Salish and Kootenai Tribe judicial system is considered a model for the other Indian reservations in the United States and the Chief Tribal Judge, the Honorable Don Dupuis has been dispensing justice in that court for over 15 years. Sen. Pineseault stated that he appears in tribal court on a regular basis representing both tribal and non-tribal members and treats their judges and officials with the same respect as he would treat the justices of the Supreme Court of the United States. Having said this, he shares some

serious concerns about jurisdictional issues as they are addressed in the proposed agreement. In spite of the negative declaration provision of the proposed agreement, many non-tribal residents on the reservation simply do not want to submit to tribal court jurisdiction for primarily two reasons: 1.) They have no voice in the selection, control, nor make-up of the tribal court, and 2.) The lack of a meaningful appeal procedure from a tribal court judgement. Senator Pinsonneault stated that jurisdiction is like a pregnant woman . . . either you're pregnant, or you're not. Either you have jurisdiction, or you don't. He mentioned the possible solution of addressing at least one critical issue, and that would simply to have any citation that is issued to a tribal member addressed in tribal court and any citation that is issued to a non-tribal member appear in State Court in Polson. The jurisdictional issue is one of profound complexity and consequence.

His support for SB 446 in part rely's on the good faith and credit of our Governor Stan Stephens and his public announcement and position taken on SB 446 (EXHIBIT 6). The Sen. asked the committee to carefully consider any amendments that are being proposed and let them be reviewed by the Tribal Council in the spirit of good faith in which they are intended. The amendment process does not stop here, likewise, the governor has amending authority and that is simply part of this cumbersome legislative process. To simply close the door to any amendments will result in SB 446 being an exercise in futility and all efforts are doomed to failure and we will continue on a collision course that will result in years of litigation, tremendous expense on both sides, continuing confrontation and allowing the citizens of the reservation to exist in anguish, uncertainty and frustration. He urged the committee to carefully consider this agreement and carefully weigh any amendments that are being proposed.

Mickey Pablo, Chairman of the Confederated Salish and Kootenai Tribes stated that the Flathead Reservation has some of the best bird hunting, fishing and recreation opportunities in Montana. In 1988 the Confederated Tribes spent nearly 1 million tribal dollars on reservation wide hunting and fishing and recreation programs. The tribes commitment to sound wildlife management is demonstrated by implementation of catch and release fishing policies on the reservation, elk and sheep preserves on the reservation, grizzly bear and mountain lion hunting bans, reservation wide steel shot regulations and the requirement that all moose hunting by tribal members, both on and off the reservation, be done by tribal permit. The tribes cooperate with the Montana Dept. of Fish Wildlife and Parks in many areas, including the sharing of moose kill information, a goat hunting ban in the

Rattlesnake Wilderness and joint management of Flathead Lake. In order to insure that these resources are properly managed in a unified reservation wide manner which maximizes benefits to sportsman and sportswomen, the tribes implemented tribal ordinance 44-D in 1986. This ordinance asserts tribal management over all hunting and fishing on the Flathead Reservation. Ordinance 44-D was enacted pursuant to article 3 of the Helgate Treaty, wherein the tribes reserved exclusive hunting and fishing rights on the reservation. The ordinance was approved by the Secretary of the Interior. Because of the State of Montana's concern about jurisdictional aspects of 44-D, the tribes in the state commenced negotiations in late 1986. Last December 13, Mr. Pablo stated that he signed on behalf of the Confederated Tribes a landmark cooperative agreement. It is the first cooperative agreement of its kind between the State of Montana and an Indian tribe on hunting and fishing. Mr. Pablo commented that the tribal council approved the agreement because they placed trust in their negotiating team. They negotiated in good faith with the proper legal party under Montana law. The tribes are frustrated with the opposition of political maneuvering that has accompanied SB 446. The tribes have demonstrated their commitment to cooperation and to compromise. All the tribes seek is a cooperative government to government relationship with the State of Montana.

Mr. Pablo expressed that the tribes are disappointed to learn that there are attempts to further amend SB 446 in the House. They believe the sponsors of the proposed amendments are well aware that their amendments are unacceptable to the tribes and will kill the agreement. The recent attempts to amend the bill violate an agreement reached between Rep. Mercer and the tribes. In return for the tribes accepting an additional clarifying amendment in the Senate, and agreeing to send a letter to the Governor stating the tribes willingness to meet with the Governor after the public review process on a cooperative agreement, Rep. Mercer promised the tribes that he would support the bill in the form that it passed the Senate and not seek further amendments to the bill in the House. The tribes honored their end of the agreement; they sent the letter. Mr. Pablo stated that they had reason to believe that Rep. Mercer would also honor the agreement. On March 3, the day Gov. Stephens announced his support for SB 446, Rep. Mercer and the Lake County legislators, who now propose additional amendments to SB 446, issued a joint statement, stating "nevertheless, in the best interest of Lake County and in reliance on the firm position taken by Gov. Stephens, together with the tribes statement that they are willing to meet with the Governor after the hearing process to discuss the agreement, we can support SB 446 as amended." Rep. Mercer informed the tribes two days

prior that he and other Lake County legislators are seeking further amendments to the bill. He has not acted in good faith. Cooperation is what this agreement is all about. In conclusion, Mr. Pablo stated that the committee as well as the Montana Legislature should be aware that the tribes are opposed to further amendments, and it now appears that the only alternative to the cooperative agreement is litigation of SB 446 as further amended. The issue is one of good faith dealings. They feel they have fully lived up to their end of the bargain.

Mr. Pablo expressed on behalf of the people of the Confederated Tribes their gratitude to Governor Ted Schwinden and Director Jim Flynn for their good faith commitment and dedication to this process over the past two years. By supporting SB 446, Gov. Stephens has also demonstrated his leadership and commitment to this same goal.

Joe Dupuis, the Executive Tribal Secretary for the Confederated Salish and Kootenai Tribes stated that he is a proponent of SB 446 without amendments. He commented that one only has to look around the hearing room and see that they are a house divided. In his mind, they are a house divided because of myths, misstatement of facts, rumors and misrepresentation. Today, the opposition is to tribal management of the hunting and fishing resources on the reservation. Resources that were specifically kept for the tribes through the Treaty of Helgate in 1855. Mr. Dupuis, speaking of the tribal court, stated that in the last calendar year out of approximately 680 civil cases filed in the tribal court, the majority of those civil cases were filed by non-Indians at their discretion. Non-Indians are already using tribal court, and doing it on a voluntary basis. Additionally, Mr. Dupuis addressed the issue of secret meetings. The discussions on this issue were not held in secret. He feels that it is unreasonable of anybody to expect the tribe and the state to sit down and negotiate these issues when they have clear evidence that to do so would be to ask people to negotiate in a climate that was ripe with threats of physical violence. One only has to look at the reports from the meeting with the county commissioner a few weeks ago when those elected officials were threatened with hanging and threatened with being shot. Mr. Dupuis urged the committee to vote for the proposed bill without amendments.

Mr. Donovan Bolt, Director of Bureau of Indian Affairs on the Flathead Indian Reservation stated that he was appearing on behalf of their Portland area Director Stanley Speaks who was unable to attend. Mr. Bolt read a prepared statement from Mr. Speaks voicing his support of SB 446 (EXHIBIT 7).

Ron Marcoux, Assoc. Director of the Dept. of Fish Wildlife and

Parks appeared before the committee representing Gov. Stan Stephens' administration. Mr. Marcoux submitted written testimony stating his support of the proposed legislation (EXHIBIT 8).

Sen. Paul Rapp-Svrcek, Senate District 26 stated to the committee that by all accounts, life on the reservation for non-tribal members is at times difficult, confusing and frustrating. They must live under rules, the formation of which they have no say in, and they are governed by a body in which they have no representation. Sen. Rapp-Svrcek commented that he shares the frustration of the non-tribal members and has voiced his concern in the strongest possible terms to both the congressional delegation and tribal council representatives. SB 446 would allow non-tribal members to have a say in rules that govern them prior to the enactment of any agreement. There are those; however, that believe that the tribal council has no standing and has no jurisdiction over non-tribal members. Nevertheless, both federal law and legal precedent clearly holds otherwise, and until the federal government changes this system it is the system under which we must act. He stated that he is not necessarily endorsing the agreement as it is presently written, although he certainly favors generally negotiated agreements versus litigation in court for settlements. SB 446 allows the negotiation process to go forward. As has been testified, Montana is already looked to as a leader in dealings with tribal people and has already negotiated a water agreement with the Fort Peck Reservation at a fraction of the cost and all rights were protected, much more so than would have been under a court agreement. Sen. Rapp-Svrcek stated that he has no commitment to the bill one way or the other regarding the amendments that are being proposed; however, he asked that the committee tread very carefully in considering the amendments. He asked the committee to pass SB 446 so that for once the non-tribal members living on the reservation will have the opportunity for the input unto regulations under which they must live. He stated that the committee could take a positive step and endorse the negotiations between the state and the tribes, or they can kill the bill and commit Montana to one and perhaps several long costly, and in all likelihood, losing court battles. He asked the committee take the positive step and concur in SB 446.

Don Peterson, a member of the Lake County Commission presented the committee with testimony voicing the commission's support of SB 446 (EXHIBIT 9).

Sen. Ethel Harding, Senate District 25 acknowledged that SB 446 is enabling legislation and pursues an agreement. She urged the committee to consider Rep. Davis' amendments so that the bill could be amended to exclude the private land owners on the reservation so private land owners might be treated the same as any private land owner in the State of Montana.

Rick Smith, a Polson businessman stated that he believes that it is essential to the economy of Lake County that they be able to enter into agreements and negotiate with the tribes and not to litigate. SB 446 is a step in the right direction.

Alan Mikkelsen representing himself, commented that his family has lived on the reservation for over 50 years and spoke in favor of SB 446. He strongly urged the committee to consider an amendment to require legislative ratification of any agreement based on the fact that the Confederated Salish and Kootenai Tribes are a sovereign government.

Glen Marx, a policy aid for Gov. Stan Stephens on natural resources commented that the statement made by the Governor (EXHIBIT 6) speaks for itself. It is a strong statement which stresses a commitment towards cooperation and negotiation. He made that commitment and he stood by that commitment. Mr. Marx stated that they support the bill in its current form. If the bill dies, negotiation dies.

Rep. Angela Russell, House District 99 representing primarily all of the Crow Reservation recommended to the committee that there be no amendments adopted into the bill.

Brenda Desmond, an attorney employed by the University of Montana School of Law, Indian Law Clinic submitted written testimony for the committee's review (EXHIBIT 10).

Elwin Bennington of Lake County presented testimony in favor of SB 446 (EXHIBIT 11).

Kim Reineking, President of the West Slope Chapter of Trout Unlimited in Missoula voiced support of SB 446 (EXHIBIT 12).

Don Alley, a resident of Kalispell stood in support of SB 446 and spoke on behalf of the National Trout Unlimited organization.

Don Chance, speaking on behalf of the Montana Wildlife Federation stated that 14 out of the 15 affiliated sportsmen clubs around the state strongly endorse SB 446 without amendments.

Stan Bradshaw, Montana Council of Trout Unlimited voiced support of the proposed legislation.

Dick Wollin, a resident of Polson submitted a prepared statement endorsing the concurrence of SB 446 (EXHIBIT 13).

Renee Roullier of Ronan, Montana and a member of the Salish and Kootenai Tribes voiced support of the bill without amendments (EXHIBIT 14).

Lucille Otter of Ronan, Montana presented written testimony voicing her support of the proposed legislation without amendments (EXHIBIT 15).

Cathi Dupuis Shortman, a member of the Salish and Kootenai Tribes voiced her support of HB 446 without amendments.

Rep. Brooke submitted testimony on behalf of her mother-in-law, Margaret Sterling Brooke who has been a resident of Ronan for 83 years and hoped the legislature would honor the Dept. of Fish, Wildlife and Parks contract with the Indians (EXHIBIT 16).

Additional testimony submitted in support of SB 446 is listed as EXHIBITS 17-21.

Testifying Opponents and Who They Represent:

Bill Covey, Big Arm Resident  
Stan Ryan, Lake County Landowner  
John Cochrane, Big Arm Resident  
John Cramer, Flathead Lake Resident  
Del Palmer, Rancher in Sharlo, Montana  
Torrey Johnson, Crow Reservation Resident  
Brad Spear, Dayton, Wyoming  
Walt Dupea, Big Fork  
Sen. Larry Tveit, Senate District 11  
Mary Lee Jacobsen, Blackfeet Reservation Property Owner  
Rob Brock, President, Western Montana Fish and Game Assoc.  
Valerie Larson, Farm Bureau  
Ralph Johnson, President, East Slope Taxpayers' Assoc.  
Boyd Evans, Browning, Montana  
Rick Jennison, Ronan, Montana  
Ruth Mahle, St. Ignatius, Montana  
Doug Jennison, Polson Resident  
Rose Evans, Helena Resident  
Budd Mahle, St. Ignatius, Montana  
Ruby Gene Covey, Big Arm Resident  
Louella Bolten, Dayton, Montana

Opponent Testimony:

Bill Covey, a resident of Big Arm, Montana submitted testimony voicing his opposition to SB 446 (EXHIBIT 22).

Stan Ryan, a landowner in Lake County stated that his concern is with private land and the jurisdiction that goes along with private land. He presented written testimony elaborating his concerns as well as a suggested amendment for SB 446 (EXHIBIT 23).

John Cochrane of Big Arm, Montana commented that he has lived within the Flathead Indian Reservation for some 20 years and presented the committee with testimony voicing his opposition to the concurrence of SB 446 (EXHIBIT 24).

- John Cramer, a resident of Flathead Lake presented testimony voicing his opposition to SB 446 accompanied by proposed amendments for the committee's consideration (EXHIBITS 25 and 26).
- Del Palmer, a rancher of Sharlo for the past 50 years stated that SB 446 provides for authority allowing the state to enter into agreements with the tribes. It should be noted that tribes sovereignty is limited to states and the United States. The Indian Citizenship Act of 1924 gave Indians full citizenship with the same full rights as other U.S. citizens. Both the agreement and SB 446 were conceived in closed and secret meetings between the state and the Confederated Tribes. Concerned citizens of the reservation who appeared uninvited at the secret closed meeting held at Lone Pine State Park, 5 miles southwest of Kalispell, were asked by then Director Jim Flynn of the Dept. of Fish, Wildlife and Parks to leave. The meeting took place on May 18, 1987 and according to Mr. Flynn was held closed at the tribes request. Mr. Palmer stated that this was a direct violation of Article 2, Section 8 and Section 9 of the Montana State Constitution. While SB 446 is separate from the agreement, which, Mr. Palmer expressed is totally unacceptable in its present form, provides for the Governor to reach agreements with the tribes and no agreement is complete without signatures from both parties. Such authority placed in one public servant is extremely dangerous. Mr. Palmer asked that SB 446 be recommended a do not pass unless it is revised to protect the people in the areas being affected.
- Torrey Johnson, a resident of the Crow Reservation voiced his opposition to Rep. Yellowtail's proposed legislation and submitted testimony in regard to his concerns (EXHIBIT 27).
- Brad Spear, residing in Dayton, Wyoming stated that he appears in opposition to SB 446 as he actively engages in ranching on the Crow Indian Reservation in Big Horn County and submitted testimony (EXHIBIT 28).
- Walt Dupea of Big Fork stated that he sees a real problem of having a sovereign nation within a nation. He doesn't feel that anyone should be treated separately and that everyone should have equal rights. He commented that he doesn't have any problems with anybody, but doesn't think that they want to have a set up where they can't have everyone on equal footing either. Until they do something about that, there will continually be hassles and power struggles. Mr. Dupea submitted an article from the Bigfork Eagle for the committee's review (EXHIBIT 29).

Sen. Larry Tveit, Senate District 11 rose in opposition to SB 446 and stated that he is concerned as to how the agreement is structured. The bill should be looked at more closely for the fairness of not only the tribes but as well as for the people that live on the reservation and for the good of the entire State of Montana. He commented that he supports the proposed amendments but opposes the bill in its original form.

Mary Lee Jacobsen, a property owner on the Blackfeet Reservation presented testimony voicing her opposition to SB 446 (EXHIBIT 30).

Rob Brock, President of the Western Montana Fish and Game Assoc. stated that the Assoc. is generally in favor of negotiation versus litigation, and for that reason they do applaud the Schwinden Administration, Director Flynn and the tribes for trying to negotiate an agreement in this manner. In general, they feel they must urge the committee to vote against SB 446 in its current form as they have three particular concerns. The Assoc. is primarily made up of people that live in the Missoula area, and under this bill they would essentially be third class citizens in terms of licensing requirements. In addition, the ability of the tribal members to be able to hunt free, without paying anything for a license state-wide is a real concern to them. As they see it, it does not concern fishing or bird hunting only, it appears to them that the agreement addresses hunting in general, which they would see to include the big game species as well. Also, they see the court jurisdictional problems in that the tribal members would be accountable in tribal court and if possible, the non-tribal members could be held accountable in tribal court also. He urged the committee's consideration as to the above mentioned concerns along with the amendments proposed by the other opponents.

Valerie Larson, representing over 3,600 farm bureau members from across the state rose in opposition to SB 446 and submitted testimony urging the committee to vote against the proposed legislation (EXHIBIT 31).

Ralph Johnson, President of the East Slope Taxpayers' Assoc. and owner-operator of a taxpaying farm and ranch on the Blackfeet Indian Reservation presented testimony voicing his opposition to the concurrence of SB 446 (EXHIBIT 32).

Boyd Evans of Browning, Montana stated that he does not believe that SB 446 takes care of his rights as a citizen of Montana to hunt and fish in the state. He does not believe that all the revenues from state licenses can go into tribal funds. The state has to be able to control hunting and fishing in the State of Montana off of tribal property.

Rick Jennison of Ronan, Montana commented that this agreement is a good idea; however, the only thing that it does not address is natural resources of the State of Montana that do not fall within the boundaries of the Flathead Indian Reservation. This agreement is one sided until such time, as it would include fish and wildlife off the reservation. If the tribes are concerned with the fish and wildlife on the reservation, then they should be concerned with the fish and wildlife off the reservation and make it equal for all.

Ruth Mahle of St. Ignatius, Montana stated that she is not necessarily appearing in favor of or opposed to SB 446, but that she feels there are certain areas that need to be addressed. She submitted a copy of a letter that she had written to Rep. Mercer with attachments for possible consideration for amendments (EXHIBIT 33). She stated that as landowners they want to make sure that their rights of ownership and their rights to protect are indeed protected. Additionally, she submitted Federal Indian Law cases and material by David Getches and Charles Wilkinson (EXHIBIT 34) as it is comprehensive to sovereignty rights of Indian tribes and also of rights of non-tribal members. She commented that she feels they need not fear litigation from the tribes nearly as much as they need to fear litigation from the people who are within the reservation areas. Mrs. Mahle asked of the committee to remember that tribal sovereignty is dependent on and subordinate to only the federal government, not the state.

Doug Jennison, a resident of Polson mentioned that he checked every legal document concerning his 140 acre farm, and in every case there was no mention of his land being on an Indian reservation. SB 446 and its accompanying agreement is mostly questions and hardly any answers. The Salish and Kootenai Tribes already have the privilege of hunting and fishing without a state license or permit west of the continental divide on open and unclaimed lands. This bill and the resulting agreement is not about hunting and fishing rights, it is about tribal jurisdiction. State game wardens have essentially the same law enforcement powers in their designated areas as any sheriff's dept. personnel. By cross deputizing tribal wardens in these same areas we could have the potential of rendering our sheriff's dept. completely ineffective. Letting tribal wardens issue citations on state and private lands, and state wardens doing the same on tribal lands makes no sense at all. The results of this calamity would be utter chaos resulting in many lawsuits, violence and most certainly bloodshed. Additionally, it would bring two words screaming out - racial prejudice. Wouldn't it make more sense to have state wardens patrol state and private lands and have tribal wardens patrolling tribal lands. State game wardens cannot trespass on legally posted lands to make an arrest without a warrant. With the cross deputizing concept, which judge would issue which warrant? What would happen to private shooting preserves,

private fish farms and private fur farms? Who would claim jurisdiction on these lands? Do the tribes in fact have the legal power to pursue criminal offenses committed on state and private lands? Mr. Jennison urged the committee to get the answers before they sign people's rights away.

Rose Evans, residing in Helena stated that her concern with this bill is mainly with her family's property on the Blackfoot Indian Reservation in Browning. Her family would not have the right to restrict anyone from entering onto their private fee patented property. She commented that she is not necessarily opposed to this bill, but that she is opposed to the way that it is currently written.

Budd Mahle of the Flathead Reservation stated that he has closed his land to hunting and allows no one to enter onto his land. His neighbors followed suit. The reason for closing their land is because they don't like being governed and not having any say in what's happening. They didn't have any say in the agreement that was drawn up and that no one was ever notified. This bill is doing nothing but hurting the private property owner, not only on the reservation, but off the reservation as well. Additionally, it's hurting the sportsman. He urged the committee to consider amendments to protect the private land owner when voting on the bill.

Ruby Gene Covey presented written testimony voicing her opposition to SB 446 (EXHIBIT 35).

Louella Bolten of Dayton, Montana stated that she would like to set the record straight about the issue of secret meetings taking place. The only reason the public found out about those meetings was through the grape-vine.

Additional testimony in opposition to SB 446 is listed as EXHIBITS 36 and 37.

Questions From Committee Members: Rep. McDonough questioned Daniel Decker, tribal attorney for the Confederated Salish and Kootenai Tribes if the tribes have ever exercised civil jurisdiction over non-Indian fee lands on the reservation. Mr. Decker responded that yes, they have. This agreement is somewhat a kin to a current relationship that they have with many non-Indian land owners on the reservation. There are certainly cases where they have exercised jurisdiction in a civil nature over both members and governmental entities of the State of Montana.

Rep. Hannah stated that he is aware of two ninth circuit cases and asked Mr. Decker if he could explain the differences between the two cases. One, was in which the ninth circuit was overturned by the Supreme Court as it dealt with the Big Horn River and the second, dealt with the rights of the water on the Flathead Reservation. Why is one better than the other? Mr. Decker responded that the best place to

begin would be to with the fact that every tribe is not treated the same under the law. Additionally, not all tribes are treaty tribes. It is very hard to make a general statement across the board that a decision from the Crow applies on the Flathead Reservation and vice-versa.

Rep. Hannah interrupted and stated that they are being asked to believe that cases from many other reservations from many other states will, in fact, set a precedent for Montana. Mr. Decker stated that the point is, is that although treaty documents are different, many of those documents have the same or very similar language and those cases are used for precedential value. In the case of the Big Horn River there were a couple of issues raised in that particular case. One, was the ownership of beds and banks of the Big Horn, and one was the right to regulate fish and wildlife resources. The state won that decision of who owned the beds and banks of the Big Horn River, but one must remember that that decision turned upon the particulars of that treaty of Laramie of the Crow Nation. There is continued language in that decision beyond the ownership question that says, in consensual relationships in cases of public health, safety and welfare of the tribes and for the protection of political integrity, tribes can exercise jurisdiction over non-Indians.

Rep. Knapp referred to Sen. Yellowtail's closing that this would effect the 1855 Helgate Treaty and questioned the Senator if this enabling law will set a precedent to the 1851 Fort Laramie Treaty. Sen. Yellowtail commented that the two treaties, as far as he knows them, are quite distinct. As he previously pointed out, the Helgate Treaty is very distinct as it relates to hunting and fishing. He feels that the particulars of this bill as it relates to the 1855 Treaty of Helgate will not extend naturally to the same particular provisions for other reservations and other tribes. However, Sen. Yellowtail stated that it is his hope that in spirit and in general direction, this will serve as precedent that will lead to further cooperation and negotiation within the terms of whatever the particulars of treaty laws, reservations and government complexities involve.

Rep. Eudaily asked why subsection B, lines 10-14, page 3 are in the bill if the bill is designed for enabling legislation. As he sees it there is absolutely nothing in the agreement that addresses that issue. Why do they need something in the bill that isn't even in the agreement? Sen. Yellowtail responded that the language that is there clarifies the provision that has been talked about that protects the Confederated Salish and Kootenai Tribes right to hunt outside of the boundaries of the reservation that is provided in the 1855 Treaty. This clarifies that they are

talking about off reservation on open and unclaimed lands. That amendment is meant to narrow the consideration away from privately held lands.

Sen. Yellowtail yielded the question to Mr. Flynn who stated that the treaty, with respect to fishing and hunting deals with two areas. One, is the reservation and two, is the historic hunting area of the Confederated Salish and Kootenai Tribes. The agreement that is being discussed deals with the hunting and fishing on the reservation. There still is the issue of hunting and fishing off the reservation that needs to be addressed. They are two different subject areas.

Closing by Sponsor: Sen. Yellowtail stated that the opponents showed considerable concern regarding the issue of fee patented land expressed by Rep. Davis and by Mr. Speer and Mr. Johnson. Unfortunately, they have a very poor understanding of Indian treaty law and Indian jurisdiction. Additionally, much of the concern that has been expressed arises from just exactly that kind of poor misunderstanding and misrepresentation of history and development of Indian treaty law, federal law, and U.S. Supreme Court legal precedence. Sen. Yellowtail commented that legislative ratification contrary to one opponents assertion is not required by the State Tribal Cooperative Agreements Act. That act specifically authorizes the state and its subdivisions to independently, if they see fit, enter agreements with Indian tribes. Continuing, one gentleman asserted that tribal court does not have jurisdiction over non-tribal members. That is untrue. There is a recent Supreme Court law that proved that not to be the case. Sen. Yellowtail addressed the issue that was raised of closed and secret meetings being held. Indeed, the meetings as he understands, were conducted in closed session, and to affirm the prerogative for that negotiation to be conducted so, the Attorney General Mike Greely, was invited to render an opinion as to whether that was appropriate. As to the notion that the public didn't know what was going on, Sen. Yellowtail had asked that all of the publicity, namely newspaper clippings be collected regarding this whole issue from the past several months and displayed 33 feet of publicity announcements that were available to the media in the state.

As to the precedent that Sen. Tveit fears regarding outside reservation hunting and the implications for other tribes and other reservations in the state, he is poorly informed. The subject of off reservation hunting that is represented in the Flathead Agreement, arises from the 1855 Helgate Treaty. This treaty is very specific and grants broad authority; in fact, this agreement will establish parameters for that right to hunt off the reservation. That is not true of all treaties, however, that govern all tribes in this

state. That treaty and that provision is very particular to the Confederated Salish and Kootenai Tribes.

Sen. Yellowtail expressed that the objective is to achieve resolution of difficult issues through cooperation, compromise and common ground. Reverting to the agreement (EXHIBIT 1), article 1 is the negative declaration. There is no giving away of anybody's rights in this agreement that is being proposed. Article 3, page 4, sub D under terms of agreement, it states that this agreement has the life of 5 years from the effective date. The point is, that there is nothing cast in stone here. This is a living and dynamic process. Lastly, there is an out clause addressed in article 13, page 16. On a 120 day notice, either party, with or without cause, can withdraw from the agreement. If it doesn't work out there is a fast and easy out clause. Sen. Yellowtail submitted EXHIBIT 38.

The issue of sovereignty being raised, Sen. Yellowtail commented that it has been misconstrued, elevating an atmosphere of hysteria. He wished that people would take the time to be rational and reasonable about these matters. Like it or not, treaty's, federal law and court precedence, all of the affirmed tribal authorities to govern an Indian country cannot be changed in the Montana Legislature. SB 446 paves the way to a practical common sense resolution of other wise difficult divisive costly alternatives.

## ADJOURNMENT

Adjournment At: 10:40 a.m.



REP. DAVE BROWN, Chairman

DB/je

7408.min

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 31, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI			X
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

AGREEMENT

I. NEGATIVE DECLARATION

Nothing in this Agreement shall be deemed as a concession by either party as to the other party's jurisdictional claims or an admission of the same, or a waiver of the right to challenge such claims upon termination of the Agreement. Nothing in this Agreement shall prejudice the right of any individual to challenge the jurisdiction of either party. Neither this Agreement nor the activities of the parties pursuant to this Agreement shall be utilized to affect the equitable or legal position of either party in any future litigation. Nothing in this Agreement shall be deemed as enlarging or diminishing the jurisdiction or authority of the State or the Tribes within the Reservation.

II. ACTIVITIES SUBJECT TO REGULATION

This Agreement shall be applied to all fishing and bird hunting activities engaged in by non-members of the Tribes on all lands and waters on the Reservation. It does not apply to any activities by Tribal members unless expressly so stated in this Agreement or in regulations promulgated pursuant to this Agreement.

III. TERM OF AGREEMENT

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A. Approval of Attorney General of State of Montana. As a condition precedent to submission of effectuating legislation to the State legislature, the Agreement must be submitted to the Attorney General pursuant to 18-11-105 MCA (1987) for his review and approval.

B. Effective Date. This Agreement is contingent upon adoption by the Montana Legislature, in its 1989 session, of legislation effectuating the terms of this Agreement and upon signature of such legislation into law by the Governor of the State of Montana and upon passage of implementing legislation by the Tribal Council of the Confederated Salish and Kootenai Tribes.

C. Implementation. This Agreement will be implemented beginning with the 1989 Reservation bird hunting season.

D. Duration.

(1) This Agreement shall have a life of five years from the effective date unless earlier terminated as herein provided. In the event neither party objects in writing to the other to a renewal of the Agreement, it shall be automatically renewed for an additional five year term, and for subsequent five year terms until such time as it terminated as herein provided.

IV. FLATHEAD RESERVATION FISH AND WILDLIFE BOARD

The Tribes and the State agree to establish a cooperative management board for the development of cooperative management plans which would include fishing and bird hunting regulations. This Reservation Fish and Wildlife Board shall be established as follows:

A. Flathead Reservation Fish and Wildlife Board Membership. (Board). The Board's membership consists of seven members, four of whom are Tribal members directly appointed by the Tribal Council following comment by the State. At least one of the four Tribal representatives shall be a member of the Tribal Council. The fifth member of the Board shall be the Montana Fish and Game Commissioner from Commission Region I, and the Tribal Council shall appoint the remaining two persons from a list of four persons submitted to the Council by the Director of the Department of Fish, Wildlife & Parks.

B. Technical Committees. The parties will establish a committee of fisheries biologists and a committee of wildlife biologists to make management recommendations to the Board. The Technical Committees shall be staffed in equal numbers of Tribal and State biologists but this section shall not be applied in such a manner as to require either party to hire additional staff. The number of staff

on these committees shall be determined by the Board. The Technical Committees shall report directly to the Board with their management and budget recommendations.

V. ESTABLISHMENT AND IMPLEMENTATION OF  
A RESERVATION PLAN

The biological Technical Committees shall develop proposed written cooperative resource management plans to ensure conservation practices and reasonable use of the Reservation fisheries and bird resources. The plans shall be presented to the Board for consideration and/or recommendations for change. When the plans have received the approval of the Board, the Board shall present them to the Tribal Council and the State Fish and Game Commission for final action. Plans will be developed on time tables that allow them to be used in the regulation setting process of the Tribes and the State.

Should the Technical Committees have any unresolved disagreements they shall be referred to the Board for resolution. Should the Board fail to reach a consensus on proposed regulations, the matters shall be referred to the respective parties for consideration and possible recommendations. Should the matter be remain unresolved the regulations in dispute will be referred to arbitration, as provided for in Section X of this Agreement.

Uniform regulations for fishing and bird hunting will be referred to the Tribal Council and the Fish and Game Commission for adoption as final fishing and bird hunting regulations, following an opportunity for public hearings and comment. The Technical Committees shall be responsible for conducting the public hearings, receipt of comments, and consideration of same in developing regulations to be recommended to the Board, who will, in turn make recommendations to the Tribal Council and the Fish and Game Commission. The Tribal Council and the Fish and Game Commission shall make every effort to agree on uniform regulations that will apply throughout the Reservation. The Council and Commission will adopt annually fish and bird hunting regulations for the Reservation.

#### VI. ENFORCEMENT PERSONNEL

A. Wardens. Tribal wardens who have satisfied the certification requirements contained in this Article and who are also United States Fish and Wildlife Service Deputy Game Wardens are empowered as ex officio State wardens in accordance with 87-1-503, MCA (1987). The State agrees to grant such Tribal wardens the credentials of State wardens for the purposes of this Agreement.

The Tribes agree to provide Tribal enforcement credentials to State wardens who have furnished to the

Tribes current certification from the Montana Peace Officers' Training and Standards Council, the Indian Police Academy, the Montana Police Academy, or equivalent federal training program credentials.

The parties will notify each other of inservice training courses to be offered to their wardens and offer such training to officers of both parties at no charge to the non-sponsoring party.

Tribal wardens shall be authorized to issue State fish and game citations and shall participate fully in any proceeding to enforce such citations. State wardens shall be authorized to issue Tribal fish and game citations and shall participate fully in any proceeding to enforce such citations.

B. State-Tribal Cooperative Agreements Act. This provision addresses statutory requirements contained in Montana's State-Tribal Cooperative Agreements Act, 18-11-101 et seq., MCA (1987).

1. The minimum training standards for all law enforcement officers acting under this Agreement are those certifications and training schools listed in paragraph VI.A of this Agreement.

2. Each party shall remain liable for the actions of their employees for purposes of this Agreement to the same

degree that they are currently. Neither party assumes liability for employees of the other party.

3. The chain of command for the enforcement personnel of the parties shall not be changed by this Agreement. Tribal officers will continue to report to and be accountable to superiors they now report to, as will the Department's personnel. It is the intent of the parties that necessary enforcement policy and personnel coordination will be determined and carried out by the Department's Warden Captain in Region 1 (Kalispell) and the Tribe's Chief Enforcement Officer. Day to day coordination will be carried out by each party's wardens.

#### VII. LICENSING

A. General. A Reservation license, and appropriate hunting and fishing stamps issued jointly by the Tribes and the State, shall be available to any person who is not a member of the Tribes for purchase and must be in the person's possession to lawfully fish or hunt birds on the Reservation. A Reservation license and appropriate Reservation and Federal hunting and fishing stamps are the only licenses required to lawfully engage in activities under this Agreement.

B. Resident Non-members. Any person who is not a member of the Tribes who has been a permanent resident of the Reservation for at least six months immediately prior to the date of application may purchase a Reservation resident license and appropriate stamps to lawfully hunt birds and fish on the Reservation. A valid Resident Reservation license shall be recognized by the State as a valid license to hunt birds and fish anywhere in the State.

C. Non-resident Non-members. Any person who is not a member of the Tribes who does not qualify as a resident of the Reservation pursuant to the terms of this section must purchase a Non-resident Reservation license and stamps to hunt birds and fish on the Reservation and that license will only be valid on the Reservation.

VIII. REVENUES FROM LICENSING AND ENFORCEMENT

The parties agree, subject to legislative authorization, that the equivalent of all license revenues derived from the sale of Reservation permits, and an amount equal to all fines and restitution collected in State Court and Tribal Court for fish and wildlife violations within Reservation boundaries will be deposited with the Tribes as accrued, and in a manner acceptable to the parties established accounting procedures. All such sums will be earmarked by the Tribes

for their Reservation-wide fish and wildlife program and shall be kept in the Tribes' special Conservation Account.

IX. FORUM FOR PROSECUTION

A. Initial Phase.

1. All citations for violations of Reservation law and regulations (other than federal citations) subject to this agreement and occurring upon Indian-owned lands, and violations by Indians anywhere on the Reservation, shall be entered and prosecuted in the Court of the Confederated Salish and Kootenai Tribes.

2. Citations for violations of Reservation law and regulations (other than federal citations) subject to this agreement by non-Indians on lands that are not Indian-owned shall be entered and prosecuted in the appropriate State district court.

3. Nothing in this Agreement will be deemed to limit or alter the authority of any duly authorized officer to enforce federal law.

B. Final Phase. The parties desire that all aspects of this Agreement provide for uniform management, regulation, and enforcement of the subject matter of the Agreement. To that end, and recognizing that prosecutorial forum is the sole remaining non-uniform topic under this Agreement, the

parties agree to the following process to make uniform the forum for prosecutions of violations of the Reservation fish and bird hunting laws and regulations.

1. On or before the expiration of the third year of the first term of this Agreement and annually thereafter before the expiration of each succeeding year the Board will review the record of the Initial Phase and shall recommend that the prosecutorial status quo be continued or recommend that all prosecutions for violations of Reservation law and regulations, regardless of the status of the land or the person, shall occur in the Court of the Confederated Salish and Kootenai Tribes. The Board's recommendation will be forwarded to the Director, Department of Fish, Wildlife and Parks and to the Tribal Council for their consideration. The refusal to accept the Boards' recommendation pertaining to the Final Phase shall not be an issue subject to arbitration. In rendering its recommendation the Board shall consider the following criteria in judging the adequacy of the overall Reservation wildlife management program:

- (a) trends in fish and bird populations during the life of the Agreement;
- (b) trends in Reservation permit sales during the life of the Agreement; and

(c) trends in prosecutions during the life of the Agreement.

X. DISPUTE RESOLUTION

A. Right to Arbitrate. Except as otherwise expressly provided in this Agreement, all disputes between the parties concerning the interpretation, application, or violation of this Agreement shall be resolved as provided in this Article.

B. Procedure: Parties and Appointment of Arbitrators.

The party desiring to initiate arbitration shall serve on the other party, by certified mail, return receipt requested, a written demand for arbitration setting forth (1) the nature of the dispute to be resolved, (2) the claim of the party initiating arbitration with respect to such dispute, and (3) the name and address of one arbitrator selected by the party initiating arbitration. The other party shall have five (5) days after receipt of such demand to select a second arbitrator. If no second arbitrator is selected within the five-day period, then the sole arbitrator shall be the one selected by the party initiating the demands for arbitration. If within the five-day period the party receiving the demand for arbitration selects a

second arbitrator by giving written notice of the arbitrator's name and address to the party initiating arbitration and to the first arbitrator by certified mail, then the two arbitrators so selected shall choose a third arbitrator within five (5) days after the receipt by the first arbitrator of notice of the selection of the second arbitrator. The third arbitrator shall be chosen from a pool of ten possible arbitrators, such list to consist of the names of five persons chosen by each arbitrator. If the two arbitrators cannot agree upon one of the listed arbitrators they shall each strike one arbitrator's name from the list and shall repeat this procedure with the remaining name being the duly selected third arbitrator. A flip of the coin shall determine which party strikes the first name.

C. Procedure: Discovery. As promptly as practicable after their appointment, the arbitrators shall hold a preliminary meeting with the parties to determine the most expeditious method of assembling all pertinent evidence. The arbitrators, in their discretion, may require the parties to appear for depositions and produce documents, answer interrogatories and make admissions in accordance with the discovery procedure specified in the Federal Rules of Civil Procedure. Should any party fail to comply with any procedural order or requirement of the arbitrators, such

failure may be given such weight as the arbitrators deem appropriate in the determination of the issue presented for arbitration.

D. Procedure: Decision. After presentation of the evidence, the matters in dispute shall be arbitrated by the three arbitrators, and the decision of the arbitrators, or a majority of them, shall be final. The arbitrators may include in their award a determination of responsibility for the expense of the arbitration. Prior to the making of the award by the arbitrators, neither party to this Agreement shall (except as specifically authorized herein) commence any lawsuit or other proceeding against the other party, if the subject of the lawsuit or proceeding arises out of any dispute or disagreement between parties relating to the matters set forth in this Agreement.

XI. FINANCIAL SUPPORT FOR THE AGREEMENT

The parties do not believe that a budget dedicated to implementation of the Agreement will be necessary. Any costs arising out of this Agreement shall be shared equally by the parties. Each party shall pay for the costs of participation of its staff on the Technical Committees and its Representatives on the Board out of its budgeted appropriations.

XII. REAL AND PERSONAL PROPERTY ACQUISITION

EXHIBIT 1  
DATE 3-31-89  
H/S SB 446

The parties do not anticipate that real and personal property will have to be acquired, held or disposed of in order to administer this Agreement, since the activities anticipated are similar to the party's present operations. Should such acquisition become necessary, the parties agree to amend this Agreement to deal with such situations as they arise.

XIII. TERMINATION

This Agreement may be terminated by either party upon 120 days of receipt by one party from the other of written notice, certified mail, of intent to terminate with or without cause, or as otherwise provided herein. On the date of termination all unsold hunting and fishing licenses shall be destroyed. All other property dedicated to the implementation of the Agreement will be returned to the party first providing it.

XIV. SEVERABILITY

In the event this Agreement or any portion of this Agreement or any portions of the legislation enacted pursuant to this Agreement is found to be illegal or unconstitutional by a court of competent and final jurisdiction this Agreement shall be deemed to be terminated.

IN WITNESS WHEREOF, the Confederated Salish and Kootenai Tribes and the State of Montana, by and through the Department of Fish, Wildlife and Parks, hereby execute this Agreement.

12/13/88  
Date

Michael T. Pablo  
Michael T. Pablo, Chairman  
Confederated Salish and  
Kootenai Tribes  
Of the Flathead Indian  
Reservation, Montana

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director  
Department of Fish, Wildlife  
and Parks, State of Montana

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney General  
State of Montana

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 9, 1989 10:31 am

Mr. Chairman: I move to amend SB 446 (second reading copy -- yellow) as follows:

1. Title, line 7.  
Following: "HUNT"  
Insert: "AND FISH OFF RESERVATION ON OPEN AND UNCLAIMED LANDS"
2. Page 3, line 12.  
Following: "fish"  
Insert: "off reservation on open and unclaimed lands"

ADOPT

REJECT

Signed: \_\_\_\_\_

*Pin Pineseault*

Senator Pineseault



*The Big Sky Country*

EXHIBIT 2  
DATE 3-31-89  
H# SB 446

## MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE ERVIN DAVIS

DISTRICT 53

HELENA ADDRESS:  
CAPITOL STATION  
HELENA, MONTANA 59620  
PHONE: (406) 444-4800

HOME ADDRESS:  
P.O. BOX 63  
CHARLO, MONTANA 59824

MARCH 29, 1989

### TESTIMONY - SB 446

FOR THE RECORD, MY NAME IS ERVIN DAVIS, REPRESENTATIVE DISTRICT #53, LAKE COUNTY.

I REPRESENT APPROXIMATELY 6,500 CONSTITUENTS WHO RESIDE IN THE LOWER THIRD OF LAKE COUNTY IN THE COMMUNITIES AND SURROUNDING AREAS OF RONAN, CHARLO, MOIESE, ST. IGNATIUS AND ARLEE. ALL RESIDENTS ARE CONCERNED ABOUT SB 446.

SENATE BILL 446 HAS RECENTLY SURFACED AS THE ENABLING LEGISLATION TO AUTHORIZE THE DEPARTMENT OF FWP TO AGREE TO PROVISIONS THAT HAVE BEEN ALREADY TENTATIVELY AGREED UPON IN TWO SETS OF NEGOTIATIONS. THE MOST WIDELY PUBLICIZED DEALS WITH FISHING AND HUNTING ON THE FLATHEAD RESERVATION. THE OTHER AGREEMENT DEALS WITH OFF RESERVATION HUNTING RIGHTS UNDER THE TRIBES' 1855 TREATY. THIS LATTER ISSUE HAS BEEN ADDRESSED IN SB 446, SECTION 1, SUB (B), PAGE 3, LINE 12.

IN AN INTERPRETATION PREPARED BY THE DEPARTMENT OF FWP, ~~SB 446~~,  
NEW SECTION 1 (F), PAGE 4, LINE 1, "VIOLATIONS BY NON-TRIBAL  
MEMBERS ON NON-INDIAN LAND WILL BE HEARD IN STATE COURT: VIOLA-  
TIONS BY NON-TRIBAL MEMBERS ON INDIAN LAND WILL BE HEARD IN  
TRIBAL COURT". I DON'T READ SB 446 THAT WAY; YOU READ IT YOUR-  
SELF TO SEE HOW IT READS. IF THE INTERPRETATION IS THAT 446  
READS THAT WAY, THEN THE LANGUAGE SHOULD CLEARLY STATE IT AS  
SUCH.

I THINK SB 446 HAS SOME JURISDICTIONAL PROBLEMS INVOLVING  
PRIVATE FEE PATENT LAND THAT SHOULD BE ADDRESSED IN SB 446 BEFORE  
ITS PASSAGE, AND RESOLVED BEFORE SB 446 ENABLES THE TRIBAL-STATE  
AGREEMENT. I WOULD HOPE YOU WOULD RESIST ANY PRESSURE TO PASS  
SB 446 SOLELY ON LITIGATION POSSIBILITIES.

YOU HAVE BEFORE YOU TWO AMENDMENTS. THESE AMENDMENTS ADDRESS  
PRIVATELY-OWNED FEE PATENT LANDS, BOTH TRIBAL AND NON-TRIBAL,  
WITHIN THE BOUNDARIES AFFECTED BY THE AGREEMENT AND PUT INTO  
PLACE WITH THE PASSAGE OF SB 446. WITH THE ADOPTION OF THESE  
AMENDMENTS, I CAN SUPPORT SB 446.

---

ERVIN DAVIS, REPRESENTATIVE

Amendments to Senate Bill No. 446  
Third Reading Copy

Requested by Rep. Davis  
For the Committee on the Judiciary

Prepared by John MacMaster  
March 29, 1989

1. Title, line 18.

Following: "AGREEMENT;"

Insert: "PROVIDING THAT THE AGREEMENT MAY NOT, WITHOUT THE  
OWNER'S CONSENT, REGULATE OR INCLUDE PRIVATE LAND WITHIN THE  
RESERVATION BOUNDARIES;"

2. Page 3, lines 19 and 22.

Following: "all" on each line

Insert: "or a portion of"

3. Page 4, line 6.

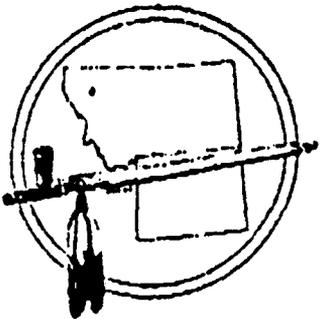
Following: "courts"

Insert: ", except that the agreement may not provide for  
prosecution of a person who is not a tribal Indian in a  
tribal court for violating a state or tribal fish or game  
law"

4. Page 4, line 13.

Following: "chapter 11"

Insert: ", and must provide that it does not include or regulate  
private lands that are within the reservation boundaries  
unless the owner consents to application of the agreement"



# MONTANA - WYOMING

## TRIBAL CHAIRMANS ASSOCIATION

Statement of the  
Montana-Wyoming Tribal Chairman's Association  
In Support of Senate Bill 446

March 31, 1989

Burton Hutchinson, Chairman  
Arapahoe Business Council  
P.O. Box 396  
Fort Washakie, WY 82834  
(307) 332-8006  
FAX 307-4578 (BIA)

Tom Whitford Sr., Chairman  
Blackfoot Tribal Business Council  
P.O. Box 880  
Browning, MT 59417  
(406) 338-7276  
FAX 338-7530

Rocky Stump, Chairman  
Chippewa Cree Business Committee  
Box Elder, MT 59521  
(406) 395-4282  
FAX 395-4382

Michael T. Pablo, Chairman  
Confederated Salish & Kootenai Tribes  
P.O. Box 278  
Pablo, MT 59855  
(406) 675-2700  
FAX 675-2386

Richard Realbird, Chairman  
Crow Tribal Council  
Box 139  
Crow Agency, MT 59022  
(406) 638-2601  
FAX 638-2672 (BIA)

Gilbert Horn, President  
Fort Belknap Community Council  
Box 249  
Harlem, MT 59526  
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FAX 353-2901 (BIA)

Ray White Tail Feather, Chairman  
Fort Peck Executive Board  
P.O. Box 1027  
Poplar, MT 59255  
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(406) 768-8185  
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Edwin Dahl, President  
Northern Cheyenne Tribal Council  
Lame Deer, MT 59063  
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FAX 768-6636 (BIA)

John Washakie, Chairman  
Shoshone Business Council  
P.O. Box 838  
Fort Washakie, WY 82834  
(307) 332-8832  
FAX 332-4578 (BIA)

After two years of difficult negotiations, the Confederated Salish and Kootenai Tribes reached a precedent-setting agreement with the State of Montana over hunting and fishing on the Flathead Reservation. The agreement provides for uniform fish and bird hunting regulations throughout the Reservation regardless of the land status for the first time ever. Without litigation. The Tribes signed the agreement on December 13, 1988.

The enabling legislation, which would allow this agreement to be signed by Governor Stephens, is now before this Committee. Montana's Indian tribes are concerned and watching this process very closely.

The primary responsibility for obtaining State ratification of the agreement clearly and properly rests with the State of Montana. The Tribes have negotiated with the State in good faith. The Tribes, the Governor's office, and Director of the Department of Fish, Wildlife and Parks followed the state law. State law calls for these types of negotiations to be conducted at the executive level and to be confirmed at the executive level. The Tribes did that. Now several local legislators seek to preempt the authority of the executive office through a thinly veiled legislative assault on the agreement; to make the authorizing legislation unacceptable through one or more of the many amendments they have proposed.

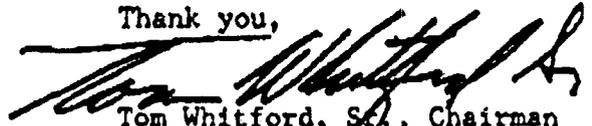
Montana Indian tribes are appalled at the treatment of the Salish and Kootenai Tribes have received. The State of Montana's good faith is in question when a few legislators and the special interest group ACE can jeopardize years of good faith negotiations on a highly complex issue. Will other Indian tribes who negotiate with the State of Montana receive similar treatment? How can the State be relied on to ratify compacts and agreements it negotiates with other Indian tribes? The cooperative efforts of the Salish-Kootenai Tribes and the State are suffering because a few refuse to accept the fact that the Hellgate Treaty exists and it confirms federally-protected Tribal rights.

Montana's Indian Tribes seek a positive relationship with the State of Montana and the Stephens Administration.

Page Two (2)  
Montana-Wyoming Tribal Chairman's Association  
Support-Senate Bill 446

We believe that one can exist. In his State of the State message, Governor Stan Stephens mentioned each Montana Tribe by name and promised that his state/tribal policy would be based on "unity and cooperation." He is demonstrating that leadership today by his support of SB 446. We support SB 446 in its present form and without further amendment. We urge this Committee to do the same.

Thank you,



Tom Whitford, Sr., Chairman  
Montana-Wyoming Tribal Chairman's  
Association

TW/mhk

cc: Chrono File

SB 44b would allow the state to pursue an agreement re: F&W mgmt with CSK Tribes.

An agreement would be the end result of a process started over 2 yrs ago when the tribes adopted ORD 44 D.

That ORD and the stated position of authority over F&W on the reservation created a state of confusion for sportsmen & recreationists on the reservation.

I discussed this situation with:

IN HOUSE ATYS  
PRIVATE ATYS  
AG OFFICE  
JUDICIARY  
HISTORIANS  
OTHER STATES.

Both sides had legal positions  
AND.

CONCLUSION: <sup>7</sup>NEGOTIATIONS WERE PREFERABLE TO LITIGATION TO SEEK COMMON GROUND.

BEGAN A SERIES OF DISCUSSIONS.

THE DISCUSSIONS WERE CARRIED OUT OVER TWO YEARS.

STATE TOOK TO THE DISCUSSIONS THE CONTENT OF THE TREATY WITH THE TRIBES — VARIOUS COURT OPINIONS — INPUT FROM THE PUBLIC — A SENSE OF TRYING TO REACH A REASONABLE, ~~AND~~ WORKABLE, ~~AGREEMENT~~. AND ACCEPTABLE AGREEMENT.

I WOULD EMPHASIZE ACCEPTABLE BECAUSE WE ARE TALKING ABOUT AN AGREEMENT. IF IT ISN'T ACCEPTABLE THEN IT WON'T WORK.

THROUGHOUT THE PROCESS WE MET FREQUENTLY WITH THE LAKE COUNTY COMMISSIONERS — INTERESTED MEMBERS OF THE PUBLIC AND RESPONDED TO NUMEROUS PHONE CALLS AND LETTERS ON THE SUBJECT.

CONCERNS WE HEARD WERE FOR:

1. THE NEED FOR A LICENSE FOR NONTRIBAL MEMBERS LIVING ON THE RESERVATION.
2. ~~NONTRIBAL~~ A FORMAL CHANNEL FOR NONTRIBAL INPUT INTO RULES & REGULATIONS.
3. STATE INVOLVEMENT IN F&W MGMT ON THE RESERVATION.
4. UNIFORM RULES & REGULATIONS
5. NONTRIBAL MEMBERS APPEARING IN NON TRIBAL COURT.

I AM PLEASED TO SAY THAT THESE ITEMS ARE ALL COVERED IN THE PROPOSED AGREEMENT.

MUCH HAS BEEN SAID ABOUT THE PRIVATE MEETINGS HELD DURING THE NEGOTIATIONS. I WOULD POINT OUT THAT AFTER EACH MEETING WE MADE OURSELVES AVAILABLE FOR MEETINGS WITH LAKE COUNTY COMMISSIONERS, THE ACE GROUP, THE MEDIA,

WE PREPARED AND DISTRIBUTED <sup>WRITTEN</sup> A SYNOPSIS OF THE MEETINGS FOR THE MEDIA AND ALL CITIZENS WHO REQUESTED IT.

IN ADDITION WE MADE THE COMMITMENT THAT NO AGREEMENT WOULD BE FINALIZED UNTIL IT HAD RECEIVED A PUBLIC HEARING.

AS THE DISCUSSIONS TOOK <sup>OUR</sup> 2 YEARS IT WAS NECESSARY TO ENTER INTO TWO INTERIM AGREEMENTS TO COVER THE HUNTING SEASONS OF 1987 & 1988.

TRUE TO OUR COMMITMENT NEITHER WAS SIGNED UNTIL A PUBLIC HEARING WAS HELD.

FOLLOWING THOSE HEARINGS AND AFTER A FEW ADJUSTMENTS BECAUSE OF THOSE HEARINGS THE AGREEMENTS WERE SIGNED AND IMPLEMENTED.

THE RECORD ON THOSE TWO INTERIM AGREEMENTS IS THAT THEY WORKED AND NO PROBLEMS AROSE.

IN CONCLUSION I WOULD URGE YOUR SUPPORT OF THIS MEASURE. IT IS NOT AN END unto ITSELF - IT WILL LET A PROCESS CONTINUE TO DEVELOPE.

A PROCESS THAT HAS ALREADY TRAVELED A LONG AND ~~DIFFICULT~~ <sup>TOUGH</sup> JOURNEY WITH THE POSSIBILITY OF TOWARD A GOAL OF ~~COMPROMISE FOR~~ A REASONABLE RESOLUTION TO A DIFFICULT SITUATION.

~~THE ALTERNATIVE IS NOT GOOD~~

~~IF~~ SHOULD THE PROCESS CONTINUE AND FAIL WE CAN ALL SAY WE GAVE IT OUR BEST EFFORT AND RESORT TO LITIGATION.

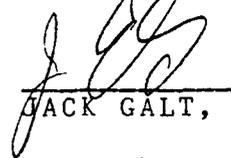
~~HOWEVER~~ SHOULD THE PROCESS <sup>CONTINUE</sup> ~~BE~~ ~~STARTED~~ AT THIS JUNCTURE ONLY THE STATE OF MONTANA CAN ACCEPT THE <sup>RESPONSABILITY</sup> ~~STATE~~ FOR THAT ~~FAILED~~ ~~PROCESS~~.

AND SUCCEEDED THEN WE WILL HAVE ACCOMPLISHED A GREAT DEAL AND WE CAN ALL TAKE PRIDE IN THAT ACCOMPLISHMENT.



State of Montana  
Office of the Governor  
Helena, Montana 59620  
406-444-3111

APPROVED FOR DISTRIBUTION

  
\_\_\_\_\_  
JACK GALT, PRESIDENT

STAN STEPHENS  
GOVERNOR

March 3, 1989

EXHIBIT 6  
DATE 3-31-86  
~~HB~~ SB 446

Statement by Governor Stan Stephens  
Regarding SB 446

SB 446 represents enabling legislation which allows the State of Montana to sign an agreement with the Confederated Salish and Kootenai Tribes for joint management of wildlife and joint management of fishing and hunting rights within the Flathead Reservation.

After consulting with the Flathead-area legislative delegation, the Department of Fish, Wildlife & Parks, tribal representatives and other sources, I urge passage of SB 446 so the State can pursue the agreement.

It is important to note that SB 446 does not mandate any agreement. And I give absolute assurance that before I sign this agreement, or authorize anyone in my Administration to sign the agreement, the full agreement will be thoroughly discussed at a series of public meetings and forums so all area residents--both tribal and non-tribal--will have an opportunity to present written and oral testimony and comments.

This is an important and historic agreement, and the public is both welcomed and expected to actively participate in the meetings. After the public forums, State and tribal representatives will meet for discussions, to determine if any modifications to the agreement are necessary.

I do not make my endorsement of SB 446 lightly. I've endorsed this enabling legislation after careful review and evaluation. I examined the alternatives if the legislation is not approved and the agreement is not pursued, and most importantly, I examined the possible impact on the residents--both tribal and non-tribal--if the current status of wildlife and hunting/fishing management on the reservation is allowed to deteriorate.

Interim agreements are not in the best interest of tribal members, non-tribal landowners, sportsmen or the wildlife, and I intend to pursue the negotiated agreement to develop long-range cooperative management.

The reason for this agreement, as many of you know, is the result of the Confederated Salish and Kootenai Tribes assertion of their tribal rights under the Hellgate Treaty of 1855. The tribes claim the treaty provides them total management of the wildlife and hunting rights inside the reservation boundaries.



State of Montana  
Office of the Governor  
Helena, Montana 59620  
406-444-3111

EXHIBIT 6  
DATE 3-31-89  
~~HS~~ SB 446

**STAN STEPHENS**  
GOVERNOR

The State contends otherwise, and has the option of pursuing a negotiated agreement or pursuing court action. Former Governor Schwinden felt, and I feel, negotiation is much preferable to litigation. Litigation is expensive, it is lengthy, and a court-imposed settlement will not be met with the spirited cooperation necessary for a long-term resolve on this issue.

I am firmly convinced that the Confederated Salish and Kootenai Tribe, non-tribal members on the reservation, the legislature and the people of Montana are open and reasonable to the concept proposed in the agreement.

I want to thank the members of the Flathead-area legislative delegation for their cooperation in this issue. Without their cooperation and diligent efforts, progress on this agreement would not have been possible.



IN REPLY REFER TO:  
Branch of Fisheries

# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
PORTLAND AREA OFFICE  
POST OFFICE BOX 3785  
PORTLAND, OREGON 97208

EXHIBIT 7  
DATE 3-31-89  
HA SB 446

MAR 24 1989

STATEMENT OF STANLEY SPEAKS, AREA DIRECTOR  
PORTLAND AREA OFFICE, BUREAU OF INDIAN AFFAIRS  
U.S. DEPARTMENT OF THE INTERIOR  
BEFORE THE  
HOUSE OF JUDICIARY COMMITTEE  
HONORABLE DAVE BROWN, CHAIRMAN  
MONTANA HOUSE OF REPRESENTATIVES  
MARCH 31, 1989

Mr. Brown, Chairman of House Judiciary Committee and members of Montana State Legislature. This is an historic occasion I am pleased to have this opportunity to present comments on SB-446. As Area Director for the Bureau of Indian Affairs, Portland Area Office, I commend the Confederated Salish and Kootenai Tribes and the State of Montana for sitting at the negotiating table instead of in the court room.

History demonstrates that Indian tribes have not backed away from conflicts with states over treaty-protected hunting and fishing rights. The State of Washington and the many tribes therein have litigated treaty fishing issues for many years and many millions of dollars. Tribal rights have prevailed. The State of Washington now embraces negotiation as the preferred method of resolving such issues.

The Confederated Salish & Kootenai Tribes and the State of Montana have taken the high ground, as evidenced by the last two years of executive-level negotiation between the two governments. Those negotiations have resulted in a cooperative management agreement between the two governments whereby the natural resources benefit. Additionally, the bird hunters and fishermen will enjoy a greatly simplified, unitary licensing and regulatory scheme for the first time ever. Non-members will be directly involved in the formulation of reservation-wide regulations. But all of these benefits must be placed into the proper context.

The Tribes reserved the Flathead Indian Reservation, their homeland, by the Hellgate Treaty of 1855. In that treaty the Tribes reserved the "exclusive right" to hunt and fish within the reservation. That treaty language is nearly identical to the language Washington State tribes have successfully litigated. The Confederated Salish and Kootenai Tribes have granted non-members the privilege of enjoying those treaty resources for a long time. Those privileges are engaged in under tribal laws approved by the Secretary of Interior in accordance with federal law and treaty.

SB-446 simply authorizes the State to enter into an agreement with the Tribes. SB-446 does not implement any aspect of any agreement. But if SB-446 is not passed no agreement can be entered by the State.

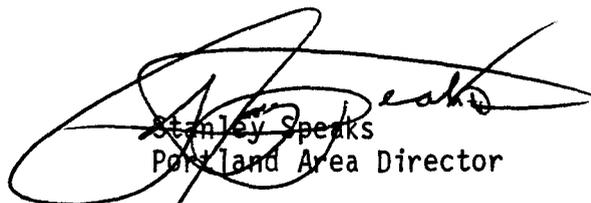
Should SB-446 not pass the Legislature this session so that Governor Stephens can sign the agreement, the Flathead Indian Reservation hunting and fishing question may end up in litigation. The United States is obligated to carry out the fiduciary duty owed the Tribes under the laws of the United States in any such conflict.

For the State of Montana and the Confederated Salish and Kootenai Tribes to work together is true political leadership. This leadership, however, has brought about resentment from some people who moved to the Indian reservation because it is a beautiful place to live. The area is beautiful because the Tribes have worked to protect the environment. After a short time on the Indian reservation these people suddenly realize there are Indian people living on the reservation. Many think that if the Indians were not there on the reservation everything would then be fine.

If SB-446 becomes law and the agreement is implemented, in a few years no one will remember why there was disagreement in the first place. For example, when the Tribes implemented the Shoreline Protection Ordinance 64-A (Revised), these same types of arguments you are now hearing were made by M.O.D., a predecessor to A.C.E. After several years of litigation in which the Tribes prevailed and the Shoreline Protection Board (made up of four tribal members and three non-members) successfully carried out its duties, there is now no great concern and the resource, Flathead Lake, has benefited. When the Tribes proposed to contract the Power division of the Flathead Indian Irrigation Project, these same types of arguments were made. Now the Tribes are operating Mission Valley Power which is the reservation-wide electric utility. It is managed by a Utility Board made up of four tribal members and three non-members and a Consumer Council made up of five non-members and two tribal members. There is no longer a paranoia of tribal operations of the power project. The same will be true with the fish and game agreement.

The enactment of SB-446 will represent a significant accomplishment that will be seen and heard around Indian country as an example to be emulated. Implementation will necessitate even closer relationships between the Tribe and other citizens of Montana. I fully expect the beneficiaries to be the natural resources and all the citizens on the Reservation.

I urge the House Judiciary Committee to pass SB-446 in its present form, with no further amendments.

  
Stanley Speaks  
Portland Area Director

SB 446  
March 31, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks

Mr. Chairman, members of the committee, my name is Ron Marcoux.

I appear here today representing Governor Stan Stephens' Administration and Department Director Kay Cool.

The department has been involved for the past two years in good faith negotiations with the Confederated Salish & Kootenai Tribes. SB 446 is a necessary element of a continuing process to finalize an acceptable agreement.

The administration strongly endorses the passage of SB 446 in its current form to assist in continuing to seek a cooperative agreement with the tribes relative to fish and wildlife management.

Governor Stephens, in his statement on March 3, 1989 regarding SB 446, said:

"It is important to note that SB 446 does not mandate any agreement. And I give absolute assurance that before I sign this agreement, or authorize anyone in my Administration to sign the agreement, the full agreement will be thoroughly discussed at a series of public meetings and forums so all area residents--both tribal and non-tribal--will have an opportunity to present written and oral testimony and comments."

Governor Stephens further states:

"I do not make any endorsement of SB 446 lightly. I've endorsed this enabling legislation after careful review and evaluation. I examined the alternatives if the legislation is not approved and the agreement is not pursued, and most importantly, I examined the possible impact on the residents--both tribal and non-tribal--if the current status of wildlife and hunting/fishing management on the reservation is allowed to deteriorate."

In addition to avoiding the possibility of costly and extended litigation, a cooperative approach provides obvious and tangible benefits to the fish and wildlife resources located on the Flathead Reservation. With passage of this bill and an agreement in hand, the department and the tribes will be able to embark on the first comprehensive and cooperative management plan ever undertaken by these two governments.

We all know that wildlife do not respect man-made boundaries, but what happens to them on one side of the line can affect what occurs

on the other. Perhaps the most vivid example of this is Flathead Lake. A court interpretation of the tribes' 1855 treaty draws a boundary line across the middle of the lake, with the tribes on one side and the state on the other. A cooperative effort is essential to provide for sound management of the fisheries resource on this body of water.

Without cooperation, we cannot expect either government's resource management goals to enjoy success. Similarly, landownership on the reservation is a checkerboard of Indian, state, federal and private land.

Passage of this bill is an essential step for biologists and fish and wildlife managers of both governments to work together in protecting and enhancing the fish and wildlife resources of this splendid part of Montana, and providing opportunities for the recreational uses associated with them.

The bottom line is, SB 446 opens the door for combined cooperation. If this bill is defeated the only door open is to the court room where there generally are no winners.

The administration urges your support in passage of SB 446, as proposed, to allow opportunities for additional public review and continued movement toward a satisfactory agreement with the Confederated Salish & Kootenai Tribes.

EXHIBIT 9  
DATE 3-31-89  
HB SB 446

THE LAKE COUNTY COMMISSIONERS ARE IN SUPPORT OF CONTINUING THE LEGISLATIVE PROCESS IN THE ENABLING LEGISLATION PROPOSED UNDER S.B. 446.

WE AS COMMISSIONERS HAVE TAKEN AN OATH TO PROTECT THE HEALTH, WELFARE AND SAFETY OF ALL MEMBERS OF THE PUBLIC WITHIN OUR COUNTY AND BELIEVE THE LEGISLATIVE PROCESS IS THE PROPER AVENUE FOR DEVELOPMENT OF A FRAME-WORK WHICH WOULD ALLOW A COOPERATIVE AGREEMENT BETWEEN THE STATE OF MONTANA AND THE CONFEDERATED SALISH AND KOOTENAI TRIBES. THE SPIRIT OF COOPERATION, LEADERSHIP, TRUST AND INTEGRITY ARE ESSENTIAL.

WHILE THE RIGHTS OF ALL THE CITIZENS OF LAKE COUNTY MUST BE PROTECTED, WE FEEL THAT THE NEGOTIATING PROCESS IS PREFERABLE TO THAT OF LITIGATION AND ENCOURAGE YOUR SUPPORT OF THIS BILL.

Mr. Chairman and Members of the House Judiciary Committee:

My name is Brenda Desmond. I am a lawyer employed by the University of Montana School of Law where I am the supervising attorney of the Indian Law Clinic. The opinions I express today are my own, not those of the School of Law.

I am here to urge your support of Senate Bill 446. I view SB 446 as another significant step toward an important goal, that of increased state-tribal cooperation in Montana. I do not wish to downplay cooperative efforts throughout the history of this state. However, I believe that in recent years especially, the state of Montana and the Indian Tribes of Montana have worked hard toward the goal of cooperation. Continuing this effort will benefit all of Montana's citizens.

In recent years, actions by each of the three branches of Montana's state government have evidenced a commitment to working with Indian Tribes. The legislature has led in this effort. In 1977, the legislature created the Committee on Indian Legal Jurisdiction. Among other duties, the Committee was charged with the duty to "identify common bonds between Indian and non-Indian." At the conclusion of its work, the Committee made several recommendations to the 1979 legislature. Its first recommendation was for the legislature to create a legislative committee on Indian affairs. The Committee also recommended that "any future committee, when possible, act as a conduit to encourage resolution of controversies through negotiation and agreement."

As you probably know, the 1979 legislature did create a select committee on Indian Affairs which was re-created by each subsequent legislature. With Wednesday's senate concurrence in HB 54, this legislature has gone one step further and made the committee on Indian Affairs a permanent, statutory committee.

The 1979 Indian Affairs Committee recommended that the 1981 legislature adopt a bill to authorize public agencies to enter into cooperative agreements with Indian Tribes located in Montana. This, of course, the legislature did in the State-Tribal Cooperative Agreements Act, (Title 18, chapter 11, part 1, MCA). As some of you may know, this Act authorizes the state, its agencies and political subdivisions to enter into agreements with tribal governments to "perform any administrative service, activity or undertaking that any of the public agencies or tribal governments entering into the contract is authorized by law to perform."

Since 1981, subsequent Indian Affairs Committees have introduced various pieces of legislation such as the 1985 and 1987 committees' bills to extend the Reserved Water Rights Compact Commission and the 1987 Committee's bill to establish an Indian Child Welfare Act specialist in the state government.

Perhaps even more important, though, has been the committee's role in encouraging a state-tribal dialogue. Through the years, committees have held public hearings on topics of great importance to state-tribal relations such as water rights, law enforcement, state-tribal cooperative agreements, and child welfare matters. Reports of the first two Indian affairs

committees indicate that the committees were sometimes disappointed with the limited involvement of tribal people in the committees' work. This has changed. The efforts and enthusiasm of the committees have created a positive atmosphere where open communication is encouraged. Tribal views are being listened to and taken seriously by the Indian Affairs Committee and the committee has been assisted in its work by this tribal participation.

The legislature has encouraged state-tribal cooperation in other ways. As early as 1951 the legislature created the office of Coordinator of Indian Affairs. In 1979 the legislature established the Reserved Water Rights Compact Commission. In 1983, the legislature made Indian tribes eligible for grants and loans from the coal board. It also created the Flathead Basin Commission and provided for tribal membership on that commission. In 1985, the legislature approved the first reserved water rights agreement with a tribal government, the Fort Peck agreement.

Time does not permit me to discuss in detail the important work engaged in by the Judicial and Executive branches.

Briefly, then, the Judicial branch - in a series of complex jurisdictional cases, has also recognized and protected the self-governing rights of Indian tribes.

The executive branch has fostered cooperation, particularly through the negotiation of state-tribal cooperative agreements. For example, the Department of Family Services has entered into agreements with four Indian Tribes concerning the implementation of the Indian Child Welfare Act. Numerous agreements have been

entered into by state agencies concerning the "pass through" of federal funds. Additionally, in January of this year, the State and the Confederated Salish and Kootenai Tribes entered into a ground-water permitting agreement. Under the agreement Coca Mines, Inc., a non-Indian mining company with an off-reservation mine site, may obtain both state and tribal water permits to export reservation ground water for its off-reservation mine purposes. The Tribes and the state have agreed not to contest the jurisdictional authority of the other government over groundwater permitting on the reservation so that the local economy may have the opportunity to benefit from reservation natural resources.

Tribal governments also evidence a commitment to cooperation with the state. In addition to participation in the legislative committee, the Fort Peck Tribes have provided for state representation on the board that resolves disputes arising under the Fort Peck Compact. The Shoreline Protection Act of the Confederated Salish and Kootenai Tribes also provides for non-tribal membership on its governing board.

Outside Montana, several long state-tribal fish and game disputes, some of which started in litigation, have been resolved by negotiation and agreement.

In September 1988, the Oregon federal District Court approved a Columbia River Fish Management Plan which had been entered into by five Indian Tribes, the United States, and the States of Oregon and Washington. Among other things, the agreement provides for co-management of the fishery, allocation

of the fish, data collection, and sub-basin planning.

Similarly, in August of 1982 Washington and the Colville Tribes entered into a fish and game management and licensing agreement.

In 1986 the California state legislature authorized the state fish and game department to enter into fishing regulation agreements with the Covelo Indian Community and the Klamath Indian Tribes. Agreements have since been made. One of the state's goals in enacting this legislation was to provide the incentive for enactment of broader legislation that would authorize similar negotiated agreements with other California Indian Tribes."

Wisconsin, in the mid-seventies entered into the first in a continuing series of agreements with two bands of Lake Superior Chippewa Indians to co-manage a portion of the Lake Superior fishery. The state has also made several interim agreements concerning off-reservation rights with other bands of Chippewa Indians and the parties are continuing to work on reaching a permanent agreement.

In closing I would like to read from the preamble of the resolution introduced in 1979 by the 1977 Committee on Indian Affairs proposing establishment of a legislative committee on Indian affairs. The preamble states in part:

WHEREAS, such litigation does not provide a satisfactory resolution of jurisdiction-related problems because court rulings rarely provide broad answers or define legal relationships generally and because litigation causes increased animosity and estrangement, further aggravating tribal/state and Indian/non-Indian conflicts...

EXHIBIT 10  
DATE 3-31-89  
HB SB 446

I think the vision of that original committee has led to some important accomplishments that have enhanced the spirit of our multi-cultural state. I hope you will continue your work toward mutual respect and understanding between the state of Montana and the Indian Tribes by voting for SB 446.

EXHIBIT 11  
DATE- 3-31-89  
HB SB 446

The Chairman  
House of Representatives  
Judiciary Committee

Mr. Chairman:

I am Elwin Bennington, resident of Lake County and I present testimony on behalf of Senate Bill 446.

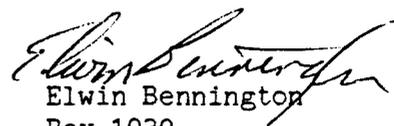
The Salish-Kootenai Tribes, a major landowner of Lake County, are willing to work cooperatively with a state agency to manage their fish and game resources for our benefit as well as for their own. Senate Bill 446 proposes an agreement to accomplish that. /No rights, jurisdictional or ownership and no status is being compromised. If SB 446 becomes law, the agreement must pass additional public hearings before final approval. There will be direct economic benefit to Lake County and it merits our support.

A genuine concern for many of us is that a highly vocal minority in our area attempts to obfuscate the real issues and to denigrate the idea of cooperation with Indians. If such acts are permitted to subvert the processes of good-faith negotiation, we jeopardize all future negotiating.

Most of us who live in Lake County do not share the anti-negotiation fear expressed by ~~a group who identify themselves with the acronym ACE,~~ a group for whom the Millenium will arrive upon dissolution of the Flathead Reservation. The economic and social benefit of a game management agreement with the Tribes certainly justifies our cooperation and it surely outweighs their threatened probability of tribal malfeasance. No law-abiding citizen is threatened by the proposed agreement. / We can't legislate against racism and bigotry but if we can't out-vote it, we're in big trouble.

I think that we should do all possible to encourage tribal leaders to become more aware of our legislative processes and to feel comfortable with negotiating future agreements. The best way for us to achieve a working relationship with tribal governments is to encourage and to be careful to preserve our own democratic processes of government.

Thank you,

  
Elwin Bennington  
Box 1039  
Polson, MT 59860

①

EXHIBIT 12  
DATE 3-31-89  
# SB 44b

Mr Chairman and Members of the Committee

My name is Kim Reineking. I am the  
President of the West Slope Chapter  
of Trout Unlimited in Missoula, Montana.

I am here to speak as a proponent  
of Senate Bill 44b

Our organization's main goals include  
water quality, instream flows or  
minimum stream flows, and catch  
and release fisheries.

The tribes goal for water  
resources on the reservation and  
our goals are consistent in this  
area.

The tribes have installed  
minimum stream flows on the Jocko  
River and the Flathead River  
below Kerr Dam.

(2)

EXHIBIT 12  
DATE 3-31-89  
HB SB 446

Fishing regulations on the reservation include catch and release fishing

for all wild trout by both

tribal and non-tribal members.

The tribes have also taken

steps to protect riparian zones.

Furthermore, there exist now,

shoreshore protection and joint

fisheries management on Flathead

lake only.

With the passage of this bill

a fisheries resource that has

suffered due to jurisdictional

considerations will be <sup>improve</sup> improved.

Management plans for <sup>an</sup> entire

river system will be achieved,

where no plan existed before.

The river knows no reservation boundary.

(3)

This agreement paves the way for cooperative management which has been stymied by jurisdictional problems before.

long range management goals between the fish, wildlife, and Parks and the tribes will be a benefit to all Montanans, not just sportsmen.

We urge passage of this bill

Thank-you

466 N. Finley Point Road  
Polson, Montana 59860  
March 28, 1989

Chairman, Judiciary Committee  
Montana House of Representatives  
Capitol Station  
Helena, Montana

Mr. Chairman and Members of the Committee:

My name is Dick Wollin. I appreciate this opportunity to share a few comments with you concerning SB 446. My comments will reflect my own personal views as one who is in business in the Polson area - and lives on Finley Point on the beautiful Flathead Lake in Lake County on the Flathead Indian Reservation and in the beautiful and majestic State called Montana.

As I have indicated in a previous letter to Representative Mercer, I favor passage of SB 446 in its present form- and support the positions that Governor Schwinden and Governor Stephens have taken in respect to the proposed agreement between the State and the Confederated Salish and Kootenai Tribes.

The fact that conflict over natural resources has developed is not unusual, as evidenced in by-lines in recent publications:

"Hawaii's Water Wars: A Pacific Paradise Settles a Hellish  
Dispute Over a Scarce Resource"

"Old Mistrusts Wilt in Minnesota as Ex-foes Reach Pact on  
Herbicides"

"Idaho Water Antidegradation Successfully Mediated"

"Timber/Fish/Wildlife- From Conflict to Consensus in the State  
of Washington"

And from this week's Missoulian - "Experiment in cooperation  
between timber industry, conservationists sidesteps  
potential appeal delays."

As these examples indicate, people opting for a problem solving approach to conflicts have overcome years of ill will and mistrust, have avoided costly and emotionally-draining lawsuits, and, most importantly, have served the public good.

It can be noted that conflict is a common factor of our daily existence. Political processes are based on the assumption of

continuing stress and challenge between administrative, legislative and judicial branches of government and between various governments. But, somehow, when conflict affects us personally conflict doesn't seem quite such a natural desirable process.

As we have seen so often, conflict without some mechanism for addressing issues can be sterile and even destructive. The options for addresssing conflicts have been spelled out - through legislation, through litigation in the courts of law; doing nothing or through negotiations dependent on consensus decision making.

In this regard, I think is terribly important for people in our valley, and in the State, to find ways to resolve disputes other than through litigation - especially those dealing with natural resource issues where so many people, groups, constituencies are influenced by decisions made by others.

Litigation is necessary at times, but there is also an urgent need to make people more aware of the opportunities that negotiation and other innovative techniques offer for resolving stubborn public policy disputes.

I think that we can take advantage of that opportunity here by passing the enabling bill and allowing the process of negotiations through consensus decision making to continue. If the bill passes, the public meetings can be conducted to hear concerns and suggestions about the proposed agreement. If legitimate concerns are noted, either party, the State or the Tribes, can and should request further discussions on the agreement.

We have the opportunity at this point in time to test whether or not adversaries on a variety of issues can come together in the spirit of cooperation, problem solving and even trust to resolve a very difficult, and seemingly intractable, dispute - recognizing that the process is as important as the substance, i.e.,

.. all constituencies must want a change in the way of doing things and must be included in the solution,

.. all must together, identify the problems, consider the choices and evaluate the consequences of alternatives,

.. participants must "agree to agree".

.. negotiators must strip away postures and focus on "real needs" and "real issues", and

.. everyone must work together and recognize the need to "give to get".

EXHIBIT 13  
DATE 3-31-89  
HB SB 446

Quoting from the Missoulian story referenced above, "... we were able to hammer out some changes that all of us could agree on and bypass a time-consuming appeals process and litigation... I am awed at the ability of all sides to sit down and work through the problems. In the future when conflicts do arise, we've set the pattern for solving the problems."

The results of four different surveys completed in the valley the past three years have all identified the need to find ways to improve working relations between various local, county, Tribal and State interests. Our ability to do that will affect our quality of life, our social interactions and friendships, our climate for economic development in the valley for years to come.

It is for these reasons that I urge a "do pass" recommendation for SB 446.

Thank you.

  
Dick Wollin

Lenée Foulmer - Logan, MT.

EXHIBIT 14

DATE 3-31-89

HB SB 446

I am confident our State governmental leaders are learned enough to see through the reactionary fears of the vocal group that opposes Senate Bill 446.

Those of us on the Reservation who are concerned with the enhancement of the whole community are growing impatient with the incessant howling from these limited minds. It is these very same individuals who resent the Tribes' existence in general and take every opportunity they can to vent their frustrations against the Tribes. **One**, <sup>"Lyle O'Leary Esq."</sup> has particularly opposed various Tribal positions regarding resource management such as the establishment of the Tribal Wilderness Area and the classification of Class I Air Quality, etc.

While these individuals continue to waste their time, money, and energy spreading their ill-informed perceptions and negativity, the rest of us in the community focus our energies on building a community that will enhance our lives and those of our grandchildren.

Senate Bill 446 has the potential of facilitating the ~~process~~ process we've begun of nurturing "neighborliness" and working together (not against one another) to build a community we all enjoy & take pride in.

The issues are complex. However, this amended bill will open the door to negotiations and the development of proper and fair resource management

My name is Lucille T. Otter. Except for the years of WWII, I've spent my entire lifetime on the Flathead Indian Reservation.

\* The intelligentsia at the University recognized that the Tribes had jurisdiction over game on the Reservation.

In the mid-sixties, Jim Earl Richard wanted to do a big game study on the Reservation for his thesis toward a Master's degree in Wildlife Science. <sup>\* above</sup> Professor Leslie Pengelly, a Wildlife Biologist who at one time sat on the State Fish and Game Commission, instructed him to first get permission from the Tribal Council. Dr. Pengelly also suggested that this young man contact me as I may be able to help him with statistics. I was Postmaster in Ronan at the time. Ronan being in the center of the Reservation, it was easy for the Tribal members to collect and report information to me as to species killed, age, sex, condition, area, etc and in turn, I would pass this information on to Jim.

During one of our visits I mentioned to Jim that there was more non-Indian poaching than Indian hunting on the Reservation. This naive young man looked at me with astonishment. He apparently believed all men on the Reservation were honorable <sup>sportmen</sup>! Later on - toward the end of his study, Jim stopped by and reported that after his thorough investigation, especially around Charlo, ~~that~~ there was poaching - that these non-Indians believed the Indian had no right to hunt or fish year-round and the non-Indian was going to do as he pleased.

I quote from Jim Richard's thesis:

"Poaching of big game by whites is a serious point of aggravation among Indians. Most claim white poaching is quite prevalent. There are several verified incidents of white poaching during the period of this study. During the summer of 1966, several white teenagers shot a mountain goat north of McDonald Lake. A white man killed a white-tailed deer near

EXHIBIT 15  
DATE 3-31-89  
arrested for  
HB SB 446

Blue Bay on the east shore of Flathead Lake. Two men were shooting elk on the Reservation near Perma and were subsequently prosecuted and fined.

One difficulty the Tribal Council has in deterring non-Indian poaching is in having only two Reservation law enforcement officers whose duties include enforcement of all the Tribal code of regulations including game laws."

END OF QUOTE

Things have changed. 10 to 12 trained Wardens - most are federally deputized, are now employed on the Reservation.

The Tribes have set aside the Mission Range as a Wilderness Area. It joins the National Wilderness on the East side of the Missions. Through recent court action on in-stream flow, the Tribes are now in the process of improving fishing.

What a great place to recreate - the Mission Valley is by far the most beautiful valley in Montana. Most of the Reservation is situated in the Mission Valley <sup>The Reservation</sup> and it extends into four counties; Sanders, Missoula, Lake and Flathead. Sanders County has it Aryan Nation and Lake has ACE - All Citizens Equal.

No matter what project the Tribes undertake, MOD now <sup>called</sup> ACE is in opposition. The opposition is conducted by spreading misinformation and untruths. The Tribes are committed to work with people not against people. ACE has opposed the Pollman Case, the Namen Case, Air Quality, Shore Line Protection (on Flathead Lake), in-stream flow and the Mission Valley Power. The Tribes and non-Indians participate on the Lake County Planning Board, Mission Valley Power and the Shoreline Protection Board and both parties work in harmony to the betterment of the community. I ask - WHAT HAS ACE CONTRIBUTED TO ENHANCE LIVING ON THE RESERVATION? ACE IS SUCH A NEGATIVE ORGANIZATION. DOES ACE REPRESENT THE STATE OF MONTANA?

*on the Shoreline Protection Board.*

*Rep John Fisher sits as chairman*

EXHIBIT 15  
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The problems we are facing were not created by the State or the Indians but arose through history from the greed of men wanting to get their hands on Indian land and resources and we, the State and the Tribes are left with the mess.

There needs to be a resolution to the hunting and fishing problem on the Reservation to benefit all residents and there are ways to accomplish this goal:

The first and by far the most satisfactory way for all concerned is to implement the agreement that the Tribes have already signed. Passage of S. B. 446 in its present form will allow this to happen.

The other method is very costly and unsatisfactory and this is to seek resolution of the problems through the Courts.

Thank you,



Lucille T. Ott er  
3076 Terrace Lake Road  
Ronan, Montana 59864

4/2

EXHIBIT 16

DATE 3-31-89

HB SB 446

Box 4420, Hwy. 93  
Ronan, MT 59864  
March 28, 1989

Chairman Brown  
Members of House Judiciary Committee  
Capitol Station  
Helena, MT 59620

Dear Chairman Brown and Committee Members:

I have lived in Ronan for 83 years. In the early 1900's my father, Addison Sterling, ran a General Merchandise store and was the postmaster in Ronan. He was under a \$10,000 bond with the United States government to trade with the tribe. In May of 1905 he started his own business which continued as the A. M. Sterling Co. for 3/4 of a century.

I graduated from the University of Montana with a degree in history in 1927. My history thesis was on Indian treaties. My interest in Indian/White relations has continued through the years and I think it is a shame that SB 446 has received so much opposition.

My husband, J. M. Brooke, M.D., practiced medicine on the Flathead Indian Reservation since 1936, first as a CCC physician. In 1938 he went into private practice in Ronan and many of his patients were tribal members.

We think it was great that the Salish Tribe and the Fish and Game Department came up with a workable plan. We think it is a shame that the whites want everything their way! After all this is an Indian Reservation and we are lucky or unlucky to also have it our home -- we feel lucky.

Our politicians opened the Flathead Indian Reservation to whites because they saw the Indian had something they wanted. When the Indians were uneducated in white man's ways -- the whites had things the way they wanted. It is time that we work to get along and make this a great county for all.

We hope the legislature will honor the Department of Fish, Wildlife and Parks contract with the Indians.

Sincerely,

  
Margaret Sterling Brooke

March 31, 1989

Montana State  
House of Representatives  
Judiciary Committee  
Senate Bill #446 Hearing

I, Lucy Cochrane, living on the  
Flathead Reservation, oppose Senate Bill 446  
unless amended to protect private lands,  
remove jurisdiction of Tribal Court and  
provide for ratification by the Legislature.

I oppose this because it implements  
the agreement made between the Salish +  
Kootenai Tribes and representatives of the  
State of Montana in closed sessions and  
without public hearings, which I feel  
is illegal and unconstitutional.

Mrs Lucy Cochrane  
P.O. Box 263  
Big Arm, Mont. 59910

March 30, 1989.

Karin Stallard  
Box 201  
Polson, Montana 59860

EXHIBIT 18  
DATE 3-31-89  
HB SB 446

To Members of the House  
Judiciary Committee.

Dear Representatives:

I am a resident of the Flathead Indian Reservation and although I could not attend the House public hearing in Helena on Senate Bill 446, I want to state, for the record, that I support this bill.

Enabling the state to "enter into a cooperative fishing and wildlife management agreement with the Confederated Salish and Kootnai Tribes" (Flathead Courier, March 23, 1989), as this bill would, is reasonable and justified, given the Tribal government's demonstrated ability to implement sound fishing and hunting policies - policies which address the needs and interests of tribal and non-tribal residents alike.

2.

EXHIBIT 18  
DATE 3-31-89  
HB SB 446

The longterm interests of white Reservation residents lie in creating policies which wisely manage local bird and game populations. Enacting legislation which simply enables the state and the Tribal government to jointly devise and implement such policies is logical and prudent. Surely there is not here cause for the alarm generated by this bill among some white Reservation residents. I am also white, and the views expressed by the most vocal opponents of SB 446, members of All Citizens for Equality (ACE), do not reflect my opinions or those of many other white Reservation residents.

While I appreciate the depth of anxiety voiced by some white opponents of SB 446, I believe that this anxiety is unjustified by the proposed bill. As often happens in complex matters of politics and history, what appears to be true on the surface, is not actually so. In this case, far from a situation

→

3.

EXHIBIT 18

DATE over 3-31-89

HB SB 446 Flat-

in which the state cedes control over wildlife and fish management on the Flathead Reservation, it stands only to gain by this bill. Ironically, in light of the charges made by the bill's opponents, it is the Tribal government which has extended itself to the state in offering to include the state as an active partner in formulating policies for the Reservation.

By treaty with the U.S. government, this Reservation belongs to the Confederated Salish and Kootnai Tribes. It is not much in size, considering what the Tribes lost of their traditional lands. We whites usually forget this fact and tend to take only the short view in thinking about what is fair or just, and ~~in~~ even in doing this, too often take into account only our own immediate self-interests, not those of other groups of people or of the environment, or of future generations of all peoples.

4.

The state of Montana loses nothing by agreeing to have the option of entering into non-binding negotiations with the Salish and Kootenai Tribes; it only gains. Tribal and non-tribal residents stand to gain from bird and game hunting policies which

strive to maintain the longterm health and survival of the animals and natural beauty of this Reservation.

Sincerely,

Karen Stallard.

EXHIBIT 18  
DATE 3-31-89  
18-58-446

EXHIBIT 19  
DATE 3-31-89  
HB SB 446

Flathead Resource Organization  
P.O. Box 541  
St. Ignatius, MT 59865

March 16, 1989

Judiciary Committee  
Montana House of Representatives  
Helena, MT 59620

Committee Members:

The Flathead Resource Organization, which represents some 70 residents of the Flathead Reservation strongly urges you to recommend passage of HB 446. We believe that, on this issue, our view also represents the majority of non-Indians in this area.

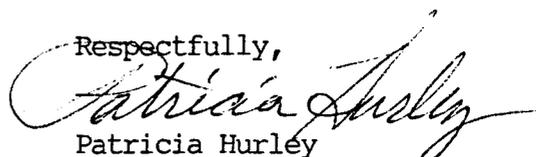
We have carefully reviewed the bill and the Fish and Game management and enforcement agreement and feel that passage of both is in the best interest of citizens of the reservation and the state.

We believe the current situation here is untenable because there is no cohesive management or enforcement of hunting and fishing regulations on the reservation. We believe the proposed agreement would resolve that problem and would adequately protect the rights and interests of both tribal and non-tribal recreationists.

We would point out that as residents of the reservation, we have long felt that the Confederated Tribes have been strongly dedicated to wise fish and game management on their lands. We would point to their progressive stewardship of the tribal Mission Mountain Wilderness; their protection of grizzly bears from tribal member hunting; tribal shoreline protection; and the Tribal Council's successful efforts in establishing meaningful instream flow regulations for reservation rivers.

Although we strongly believe the fish and wildlife pact has strong merits on its own, we feel that passage would establish a working relationship between the state and tribes on other crucial issues. These issues include a water reservation compact, land use planning, and agreements over gambling and taxation. If the fish and game compact fails, there is little chance of reaching accord on these other issues.

We believe that resistance to the agreement has been exaggerated by a well-organized, vocal minority and that it is responsibility of the legislature to act in the best interest of all Montana citizens who live on and off the reservation, who enjoy the use of state and tribal lands on the Flathead Reservation.

Respectfully,  
  
Patricia Hurley  
Board Chairwoman

cc: Confederated Salish and Kootenai Tribes

EXHIBIT 20  
DATE 3-31-89  
HB SB 446

March 27, 1989

Western Montana Fish  
and Game Association  
P.O. Box 4294  
Missoula, Mt 59806

House Judiciary Committee  
Capitol station  
Helena, Mt 59620

RE: Senate Bill 446

Dear committee member:

After a lengthy deliberation of the merits of Senate Bill 446, our Board of Directors voted to oppose the proposed legislation and agreement behind the legislation.

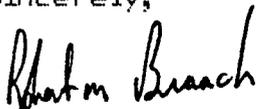
Many of the 350 people in our organization hunt, fish or otherwise recreate on the Flathead Reservation. The general concensus was that while this legislation would help clear up some of the confusing requirements of duplicate licenses, it would also create second-class Montana citizens via different license requirements and worse yet, possibly subject Montana citizens to Tribal Court authority, where citizens constitutional rights to due process and equal protection, are limited at best.

Most mutually arrived at agreements offer something to both parties. In our opinion, this agreement is basically one sided towards the Flathead Tribe. We feel this way because the proposed law grants tribal members the right to hunt anywhere in Montana free of charge. This agreement extends their current elevated status on the reservation to the whole State of Montana.

While we generally feel that an agreement is better than a mandated court directive, we also feel that perhaps in this situation, a court decision could not be any worse.

Thank you for your consideration of our position.

Sincerely,



Robert M. Braach  
President

P.O. Box 201  
Polson, MT 59860

March 30, 1989

EXHIBIT 21  
DATE 3-31-89  
HB SB 446

Rep. David Brown  
Chairman  
House Judiciary Committee  
State Capitol  
Helena, Montana

Dear Rep. Brown:

I am writing, as a non-Indian resident of Lake County and the Flathead Indian Reservation, to express my strong support for the passage of Senate Bill 446. Indeed, I feel that any other action -- including gutting the bill through amendments -- would be both foolish and wrong.

In recent months, as I am sure you are aware, a small but vocal and well-organized group of non-Indians in this area who call themselves "All Citizens for Equality" have been agitating to defeat this compromise measure. You should know that they by no means represent all, and probably not even a majority, of the whites who live here. They have been claiming, among other things, that SB 446 will pose a grave threat to their constitutional rights of representation. This is precisely the sort of inversion of reality that has long been used to shore up attempts by whites to undermine efforts by Indians to protect their cultures and to control, to some minimal degree, their own reservations. The agenda of ACE is ultimately racist, and we must be willing to say this; certainly the majority of their members favor outright termination of the reservation.

Any political analysis of SB 446 must begin with the fact that unlike any other group in the United States, Indian people were here first. We came here as immigrants; they were invaded and stripped of their homelands, with the exception of small parcels "reserved" from cession to the government. It seems a simplistic statement. But we as white citizens of Montana have a responsibility to not forget this basic structural, historical difference between ourselves and our Indian neighbors. Because they refuse to acknowledge that Indian reservations comprise "Nations Within" the U.S., and because they refuse to see that Indians have long given up many claims and rights in exchange for (broken) guarantees of the sanctity of their reservations, the members of ACE are in effect advocating the final steps of a 100-year invasion. Yet they present their case as defensive in nature, something belied by the reasonable nature of the bill itself and by the economic and political dominance of whites in this area. We need Indian cultures and Indian people, and we as a state and a nation need to be able to honor the obligations and promises we have made. If we refuse to do so, we become morally bankrupt and spiritually impoverished.

I cannot live here, of course, and not also recognize that the Flathead Reservation is a complicated place. Due to the effects of the Allotment Act, the majority of the population here is non-

Thompson Smith to Rep. David Brown  
March 30, 1989  
Page 2

EXHIBIT 21  
DATE 3-31-89  
~~HB~~ SB 449

non-Indian (though it must also be noted that most of the current white population came willingly after the homesteading period ended, and with an awareness that this is an Indian reservation). Given this situation, I find it commendable that the Confederated Salish and Kootenai Tribes have shown a willingness to negotiate on this bill and to reach a satisfactory compromise with the Montana Department of Fish, Wildlife, and Parks. The agreement would protect the rights of all parties, and I think it fully meets the concerns of whites that they be guaranteed due process. The provision for state court jurisdiction in the case of infractions by non-Indians on non-Indian lands, and the establishment of a Flathead Reservation Fish and Wildlife Board comprised of both Indians and non-Indians, strike me as particularly noteworthy concessions by the Confederated Tribes.

The greatest and most important benefit, however, will be to the environment itself. The Tribes have shown a solid capability in managing and preserving the Reservation's wild spaces and natural resources. Indeed, I think non-Indian residents need to consider the enormous benefits we derive from living in a place that has been well taken care of and protected from rampant development. The Tribes' recent moves to protect and rejuvenate the fisheries on the Reservation only serve to reaffirm their desire to implement, through modern management techniques, what is a deeply ingrained cultural value of respect for the land. Strengthening the Tribes' ability to do so through SB 446 would be good for all of us, and good for the environment.

Sincerely,

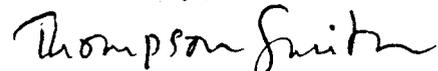
  
Thompson Smith

EXHIBIT 22  
DATE 3-31-89  
HB SB 446

STATEMENT PRESENTED BY  
WILLIAM H. COVEY  
BIG ARM, MONTANA  
SB 446  
TO THE MONTANA HOUSE JUDICIARY COMMITTEE  
MARCH 31, 1989

My name is Bill Covey. My wife and I own property and live near Big Arm, Montana, within the Flathead Reservation. I am representing myself, my wife and other citizens and private land owners of the Flathead Reservation.

I am here to oppose SB 446, however, I want to give you a brief background of our views.

The negotiations leading to the proposed agreement with the lack of citizen involvement, and the accompanying development of 446 and its' progress, have not been good examples of the democratic process! *AND have been divisive to the people on the Flathead Reservation* For many of us in the Flathead area, it has been a painful journey! As citizens, we were shut out of the negotiation process, told only what the negotiators wanted us to know, and misled as to the progress and content of the proposed agreement. We were told that there was no agreement, when one actually did exist.

When 446 was introduced in the Senate, it was handled in a manner that precluded our testimony at the Committee hearings. We would have opposed the bill, if we could have made it to the hearings.

We still remained in the process -- and gained support across the State, as people had a chance to review the agreement and the bill. Very few liked what they read, and now, very little support for the bill comes from the general public. ~~However, the Tribes, The Fish, Wildlife and Parks people and some business owners who stand to gain economically from transactions with the Tribes liked what they read. Those are still the principal supporters of this bill.~~

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We oppose 446 because we cannot live with the provisions in the agreement that it supports. The bill, as written, allows the development of agreements that abrogate state responsibilities in fish and game management on tens of thousands of acres of state and private lands, and allows the shifting of legal jurisdiction over private lands, in subtle and not so-subtle ways, to Tribal Government.

We oppose 446 unless it is amended to protect both citizen and state rights.

We need protection from the present and future agreements entered into by the Department of Fish, Wildlife and Parks. The Department has amply demonstrated, by their actions, (negotiation process) and by their deeds, (the proposed agreement), their apparent disdain and disinterest for providing adequate and appropriate save guards to the rights of Montana citizens, and to the state fish and game resources on state and private lands within Reservations.

Specific examples of the failure, included in the proposed agreement are:

1. No exclusion of jurisdiction over private land and citizens.
2. The Reservation Management Board makeup composed of 4 Tribal members and three others. How can any fair decision be reached in matters that conflict with Tribal interests?
3. Giving away all license fees and violation fines to the Tribes. Yet, the State still incurrs warden costs, fish planting costs and other management costs.
4. Also important -- the attempt to force Montana non-tribal citizens to go to Tribal court for fish and game violations on state and private land.

The Department has also supported inclusions in 446 that are foreign to the concepts of state management of fish and game as well as citizen rights. For example:

In the first version of the bill, provision was made to give free licenses and permits to Tribal members to hunt and fish anywhere in Montana, without mention of private land rights or critical shortages of some big game.

The giveaway of sportsmens' license fees, etc., with no accountability and no constraint as to use, except in the most gross terms.

The lack of provisions to assure the protection of private land from tribal jurisdiction was particularly startling, in view of the continued demands of local citizens for this protection during the negotiation process!

In view of the examples of the track record of the Department of Fish and Game leadership in this issue, we must have oversight to their agreements.

Therefore, we can support 446, if appropriate amendments are made to it. Or, the bill should die in this committee! The alternative of killing the bill is not, in our view, bad. We hear all kinds of threats of lawsuits and retribution on other state activities and other dire consequences, if the bill is not passed. These mostly come from the Tribal leaders. Management of the State of Montana must not be determined by threats and innuendos of uncooperative attitudes with Tribal Governments!

446 needs much revision! However, we want you to know we strongly support valid cooperative fish and game management between the state and the Tribes of Montana.

We also support both Tribal and non-Tribal rights, but not at the expense of one or the other.

We have four specific amendments. I will present one.

We need the following amendment to give the legislature and

ourselves the opportunity to assure that agreements entered into by the Fish, Wildlife and Parks provide for both states and citizens rights.

We propose:in the Title, page 1, line 18, following the word agreement --

Providing that an agreement must be ratified by the next legislature.

Page 4, line 19, following the word agreement, add --

The agreement must be ratified by a majority vote of each house of the legislature, at the next regular session, and if not ratified at that session, is void on date of adjournment. An agreement may not be signed while legislature is in regular session.

*We urge you to kill 446 unless it is amended,*

EXHIBIT 23  
DATE 3-31-89  
HB/SB 446

March 31, 1989

Montana State  
House of Representatives  
Judiciary Committee  
Senate Bill 446 hearing

I am Stan Ryan, of Polson. My talk is not going to be about Indians or non-Indians. My wife is 1/8 Cherokee, so I'm not going to get into that!

← Rep & Sen

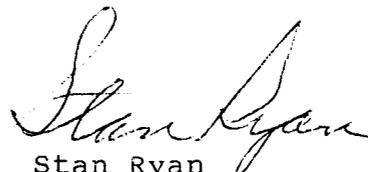
I want you to know that I am opposed to SB 446, because it does not satisfy my concerns about private land and the jurisdiction of it.

Mr. Covey's suggested amendment about legislative ratification ended up with the words, "ratified by the next legislature". I submit to you the following amendment:

*mm* *Amend* "Providing that the agreement may not regulate or include private lands within the reservation's exterior boundaries."

Why am I concerned? The answer is as old as this republic and especially in this very independent-minded state of Montana. Private land and the no trespassing pertaining to it, is one of the main foundations of the nation.

Thank you.



Stan Ryan  
Highway 93  
Polson, Montana 59860

MARCH 31, 1989

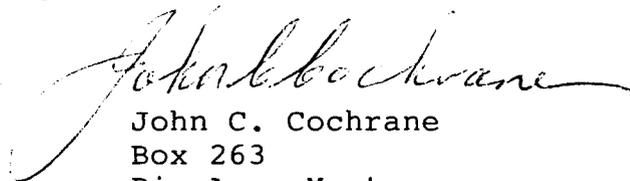
MONTANA STATE  
HOUSE OF REPRESENTATIVES  
JUDICIARY COMMITTEE  
SENATE BILL # 446 HEARING

MY NAME IS JOHN COCHRANE, I LIVE WITHIN THE FLATHEAD RESERVATION AT BIG ARM, MONTANA, AND I OPPOSE SB 446 UNLESS PARAGRAPH F OF SECTION 1 OF THE THIRD READING IS AMMENDED TO READ AS FOLLOW:

- (f) policing such Indian and other lands for the protection of fish and game and recognizing that Tribal Courts do not have jurisdiction over non-tribal members, agreements shall provide responsibility for redress of fish and game violations in State Courts for non-tribal members, or in Tribal Courts for tribal members.

My reasons for wishing this amendment, is because Tribal court systems across the United States, are notorious for civil rights violations for both Indians and non-Indians. In fact, at this time, the U. S. Congress is considering a bill, S 517, titles "The Indian Civil Rights Amendments of 1989". This bill, opposed by Tribal Governments, will help establish civil rights for Indians and non-Indians both in Tribal Courts.

There are masny examples of improper treatment by Tribal Courts which would affect us if we go to Tribal Court.



John C. Cochrane  
Box 263  
Big Arm, Montana

SENATE BILL 446  
STATEMENT TO HOUSE JUDICIARY COMMITTEE

EXHIBIT 25  
DATE 3-31-89  
HB SB 446

In order to consider the merits of SB446, you must get over the starry-eyed approach to terms such as: Indian, Cooperative Management, Cooperative Agreement and Historic Agreement. These terms have nothing to do with the merits of SB446.

What you now have, in Northwest Montana, is uncontrolled harvest of a limited resource by a group of tribal members. SB446 will allow this situation to occur throughout the State. The Tribal members presently hunt in their aboriginal hunting area with absolutely no concern for the wildlife resource. All they need now is a 4-wheel drive pick-up and a permit or two from the Tribal Council. No drawing, no limit, and in general no regulations to protect the resource. Do we need this situation all over the state and pay the Tribes \$59,000 to \$200,000 a year to do this to a limited wildlife resource?

The cooperative agreement between the Tribe and state does not apply to Tribal members, on or off the reservation. In SB446, the agreement and any regulations designed to protect the resource, developed by the FWP in conjunction with the Tribal resource people specifically do not apply to Tribal members. This leaves the protection of a limited resource totally up to non-Tribal members. This may not be adequate protection for grizzly bears, moose, sheep and goats especially when the other six tribes in the state have the same agreement. The annual hunter harvest of these big game animals is based on the biological limits of each species by area and then they are permitted on a lottery basis to in-state and out-of-state license holders. All Tribal members can obtain permits from the Tribal Council on request. SB446 will do nothing to control this situation and will only make a bad situation worse. SB446 must be amended to eliminate this resource problem or must be killed.

John Cramer  
391 La Bella Lane  
Polson, MT 59860

EXHIBIT 26  
DATE 3-31-89

Page 1. Line 7, after reservation through line 11 --

HB SB 446

to hunt and fish throughout the State of Montana with state licenses and stamps and the right to participate in the present lottery drawings for all permitted species without charge.

(B & C) Page 3. Line 6 through line 14 --

the state to issue all resident and non-resident hunting and fishing licenses, stamps and permits that are valid within the State of Montana. The Tribal members will receive state licenses and stamps and the right to participate in the present lottery drawings for all permitted species without charge. This would not preclude the Tribal members from exercising the oboriginal hunting rights.

(D) Page 1. Line 11, after tribes through line 13 -- council

authorizing revenues from the sale of licenses issued by the state on the reservation.

Page 3. Line 19 through line 21 --

authorizing that portion of revenue from the sale of state licenses, permits and stamps to be remitted to the council for the purpose of a fish and wildlife program based on the percent of Tribal and non-Tribal land ownership within the boundaries of the reservation.

*Prop. Exempt*

Mr Chairman & Members of  
Judicial House Committee

EXHIBIT 27  
DATE 3-31-89  
HB. SB 446

My name is Torrey Johnson.  
My family and I are 4<sup>th</sup> &  
5<sup>th</sup> generation Ranchers living on  
the Crow Reservation since 1883.

I am here to oppose Senate Bill  
446 as passed by the Senate -

I am here to support the proposed  
amendments made by the ranchers  
and people who live and make  
their living ~~on~~ as private land  
owners on the Flathead Indian  
Reservation.

The legal interpretation necessary to  
define concealed lands, fish and  
game violations -, jurisdiction of  
Tribal Courts etc could put Montana  
People into years of awful litigation.

The people of Montana do not deserve this.

Respectfully Submitted  
Torrey Johnson

House Judiciary Committee - March 31, 1989  
Reference SB 446

Chairman Brown & Ladies & Gentlemen of the  
Committee.

I am Brad Spear, residing at Dayton, Wyo.  
I am actively engaged in ranching interests  
on the Crow Indian Reservation, Big Horn Co., Montana.

I raise in objection to SB 446 in its present  
form.

SB 446 goes beyond the Flathead Reservation -  
it affects all those people, Indian and non-Indian  
alike, that reside or operate on the reservations  
throughout the State of Montana.

This bill affects all the citizens in the State  
of Montana. It is discriminatory in that it does  
not fully recognize the rights of Montana citizens  
residing or operating on the reservations.

The privately owned lands were purchased by  
citizens who were invited by the tribes and the  
Department of Interior to actively compete in the  
sale offering of these lands on the reservations.

The successful bidders were issued a clear  
title without restrictions as to jurisdiction. They  
were given with that title the right to peacefully

Page 2

(House Judiciary Committee)

occupy and make a living on that land —  
subject only to the jurisdiction of the State of Montana  
and the Federal Government. This land has been  
taxable by the State of Montana to provide for the  
health, welfare and the protection that is offered  
to all Montanans — on or off the reservations.

These people are justifiably concerned for  
their welfare and their protection by the State of  
Montana.

Please, do not subject them to the conflict  
that will result if they have to abide under  
the laws of two entities.

Respectfully submitted -

Brad Spear

EXHIBIT 29  
DATE 3-31-89  
HS 88 446

PAGE 2



Marc Wilson  
Editor & Publisher

Ginny Wilson  
Associate Editor

L.D. Gross  
Associate Publisher

*March 29, 1989*

## A nation in a county

If you want to understand the depth of the problems between tribal members and non-tribal members on the Flathead Indian Reservation all you have to do is read a brief Associated Press story about Japanese officials visiting the reservation.

It read:

*PABLO (AP) — Five Japanese business and religious leaders will visit the Flathead Indian Reservation next week to discuss cultural and business issues, officials of the Confederated Salish and Kootenai Tribes say.*

*"We're going to look at developing a relationship that is mutually beneficial for both nations," said Velda Shelby, who is helping coordinate the trip.*

The tribes take very seriously their status as a "sovereign nation," granted to them in the Hellgate Treaty and in subsequent court rulings. They demand — and have the legal authority to back it up — to be treated as a nation on the same level as Japan.

That's why some tribal members sometimes scorn the authority of Lake County and even the state government.

Maybe now that Mike Mansfield has retired as ambassador to Japan he'd consider an assignment as ambassador to the Flathead Indian Reservation.

We're going to need the wisdom of a Mansfield — or a Solomon — to resolve the long-term problems that exist between the residents of this country and the sovereign nations such as the Confederated Salish and Kootenai Tribes.

Montana State House of Representatives  
Judiciary Committee: Re SB 446 Hearing

I am Mary Lee Jacobsen and a property owner on the Blackfeet Reservation. I am against SB 446 as it is proposed at this time. I do not feel this bill addresses the Jurisdictional rights of people who have United States patented deeds within the Exterior Boundry's of Reservations regardless of race. Indians own private lands too.

I feel that it is going to present Constitutional problems on fee patent lands and financial problems to both the State and Indian Tribes. The negotiations between Fish, Wildlife & Game Department and Tribal Councils of the Salish-Kooteni Tribe were done behind closed doors; without public in-put; or regard for private property ownership and public lands.

I feel that in spite of the fact that (it) (SB 446) is for the Flathead Reservation; as soon as it is made law it will also stand for all seven reservations in Montana; as well as all tribes throughout the United States. It is common knowledge that all tribes do not have good judicial programs - such as the Flathead Res. does and concern for these peoples must be considered.



**MONTANA FARM BUREAU FEDERATION**

502 South 19th • Bozeman, Montana 59715  
Phone: (406) 587-3153

EXHIBIT 31  
DATE 3-31-89  
SB 446

BILL # SB 446 ; TESTIMONY BY: Valerie Larson  
DATE March 31, 1989 ; SUPPORT \_\_\_\_\_ ; OPPOSE oppose

Mr. Chairman, members of the Committee, for the record, my name is Valerie Larson, representing over 3600 Farm Bureau members from throughout Montana.

Mr. Chairman, I rise in opposition to Senate Bill 446. Farm Bureau believes that non-tribal citizens and their lands inside reservation boundaries should be governed by the state of Montana and not be under tribal jurisdiction.

Without the proposed amendments, Farm Bureau opposes Senate Bill 446, and urges a DO NOT PASS.

Thank you.

SIGNED: \_\_\_\_\_

EXHIBIT 32

DATE 3-31-89

H/SB 446

March 31, 1989

HOUSE OF REPRESENTATIVES  
JUDICICARY COMMITTEE

My name is Ralph Johnson. I am president of the East Slope Taxpayers' Association and owner-operator of a taxpaying farm and ranch on the Blackfeet Indian Reservation in Montana. The Taxpayers' association was formed six years ago when the Blackfeet Tribal Council not only opposed state jurisdiction of all water rights with the Reservation but at the same time started proceedings on a business tax or license, the latter of which went into effect December, 1983.

In December, 1986, the Blackfeet Council inacted Tribal Ordinance 80, which is a possessory intrest tax of all lands within the exterior boundaries of the Blackfeet Reservation, regardless of whether they are owned in fee, whether they be allotted or Tribal lands, or whether they be otherwise held.

Twelve years ago Congressmen Meeds remarked to the U.S. House of Representatives on November 3, 1977 in regards to H.R. 9950, a bill he introduced which would define the limits of State and Tribal regulatory power. In it he said, "The American Indian has a very rich and unique culture. He should be given every right to practice that culture. But the American Indian is also an American citizen. He lives among American citizens. Ways can be found to prevent the collision of his uniqueness as an Indian and the rights of other Americans, including Indians, under the Constitution."

We believe the best way to prevent such a collision would be to secure all deeded lands on Indian Reservation under State and County jurisdiction. This would create a positive atmosphere for a strong economic base for jobs and industry but would in no way interfere with the rights of tribal governments as they would still have jurisdiction over tribal and trust lands.

These and other tribal ordinances are creating an anti-business climate here so that any person, member or non-member, who has a business (farmming and ranching included) or ever hopes to open a business is completly discouraged from doing so, and is investing elsewhere. This creates a more depressed economic situation and futher erodes an already depleted job market! In such a clouded climate how long can the few taxable businesses last?

Without the removal of deeded lands from the threat of tribal jurisdiction the never-ending struggle between Indians and non-Indians will only be perpetuated. This is not a problem either group has created, but rather it is the failure of Congress to define Tribal and State jurisdiction within the exterior boundaries of Indian reservations. This lack of authority by Congress concerning tribal jurisdiction has led

EXHIBIT 32  
DATE 3-31-89  
HB SB 446

to a direct conflict of interests between tribal aspirations and the Constitutional rights of American citizens.

The United States government has advocated certain responsibilities, constitutional guarantees, treaties, laws and court decisions that uphold the rights of tribes. But what about the rights and constitutional guarantees of the other American citizens that are alienated by these same policies?

I found Section I of the Fourteenth Amendment (adopted July 28, 1868) appropriate to our subject and, therefore, will close with it as follows: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within jurisdiction the equal protection of the laws."

We oppose S.B. 446 as is unless it can be amended to protect the rights of all citizens. And we believe that where Tribal desires collide with Constitutional principles, the Tribes interests must yield.

Thank you for your time.

Sincerely,

Ralph L. Johnson, president  
East Slope Taxpayers Ass.  
Box 788  
Browning, Mt. 59417

EXHIBIT 33  
DATE 3-31-89  
# SB 446

11338 Hillside Road  
St. Ignatius, MT 59865

March 23, 1989

Hon. John Mercer  
Minority Whip  
House of Representatives  
State of Montana  
Helena, MT

Dear John:

In an attempt to come to some middle ground for SB.446,  
enclosed is a rewrite of SB.446 with suggested changes,  
additions, etc.

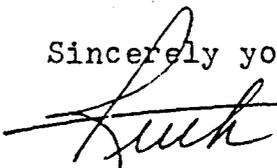
While you may not agree with all of them, at least it  
will give you an understanding as to how the Bill can be  
tightened and perhaps more palitible to most residents  
on the reservation, as well as State-wide concerns.

As you can imagine, I have spent hours on this and  
incorporated some of the thoughts others have expressed  
as to their opposition of the present Bill. Others are  
my own.

Please feel free to contact me should you have any questions,  
comments, etc.

Good luck!

Sincerely yours,

  
Ruth E. Mahle

Enclosures

cc: Other Legislators  
County Commissioners, Lake

A BILL FOR AN ACT ENTITLED: " AN ACT AUTHORIZING THE LEGISLATIVE BODY OF THE STATE OF MONTANA TO ALLOW MEMBERS OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION TO HUNT WITHOUT STATE LICENSES

Changes approving body

IN ACCORDANCE WITH CONSERVATION PRACTICES, PERMITS AND STAMPS FOR BEAR, MOOSE, MOUNTAIN SHEEP, GOATS, ETC AS STATE REGULATIONS REQUIRE, AND REGULATIONS AS TO SEX, POPULATIONS, AND OPEN HUNTING AREAS, IN COMMON; AUTHORIZING THE ISSUING OF HUNTING AND FISHING LICENSES, PERMITS, AND STAMPS ON THE FLATHEAD RESERVATION JOINTLY WITH THE CONFEDERATED ENGLISH AND KOOTENAI TRIBES; AUTHORIZING REVENUES FROM THE SALE OF JOINT LICENSES, PERMITS, AND STAMPS TO BE REMITTED TO THE TRIBAL COUNCIL FOR THE PURPOSES OF AN AGREED UPON MANAGEMENT PROGRAM; TRANSFERRING TO THE TRIBAL COUNCIL FINES AND PENALTIES COLLECTED FOR CERTAIN FISH AND WILDLIFE/COMPENSURATE WITH THE MONTANA FISH, WILDLIFE AND PARKS VIOLATION SCHEDULES, AND AFTER COURT EXPENSES OF THE DISTRICT COURT; GRANTING RESPONSIBILITY FOR REDRESS OF FISH AND WILDLIFE VIOLATIONS TO STATE COURT FOR NON-MEMBERS, OR TRIBAL COURT FOR MEMBERS; PROVIDING FOR PUBLIC MEETINGS AND INPUT AND WITH APPROVAL/DISAPPROVAL BY AN ESTABLISHED REPRESENTATIVE BOARD, PRIOR TO THE CONCLUSION OF A NEGOTIATED AGREEMENT; AND AMENDING SECTION 87-1-228, MCA. "

Requires permits for certain species, conservation as required throughout State, all areas in accordance with State regulations as well as sex, etc., "in common" with all other hunters, and as spelled out in Treaty.

Sales restricted on the Flathead Reservation only.

Earmarks the monies specifically, and a plan as would be that of the State of Montana

All fines, etc., to be in accordance with all other areas as if under FWP

State and County Taxpayers are entitled to District court expenses

Wildlife includes all - except fish as stated Non-Indians are excluded from Tribal Courts established by Fed; State cannot give away rights no appeal system, etc.

Must be guaranteed input; Board can approve or disapprove - could also come to vote by those at hearings.

\* PROVIDING RIGHTS OF PRIVATE LANDOWNERS;

\* Insert: New (contained in Sec. 1 (i))

LAKE IT ENACTED BY THE LEGISLATURE OF THE STATE

3-8-55

3-8-55

3-8-55

SECTION 1. Section 87-1-228, MCA, is amended

hunting and fishing -- Indian treaty of 1855.

(1) Whereas, by treaty of July 16, 1855, between

the United States of America and the confederated

tribes of the Flathead, Kootenai, and Upper Pend

Oreille Indians, the tribes have certain rights

to fish and privileges of hunting, in common,

and whereas, it appears to be to the common

advantage of the state and Indian tribes to

cooperate in matters involving hunting and

fishing. Therefore the department may negotiate

an agreement with the council of the

Confederated Salish and Kootenai tribes of the

Flathead Indian reservation for the purpose of:

(a) authorizing individuals to serve on a

state-tribal cooperative board to develop hunting

and fishing regulations, wildlife management, and

decisions regarding public hearing input. The

Board will consist of the following: 1-Tribal Council

Member, 1 State of Montana FWP; 5-Landowners of

80 acres or more, to be selected from tribal and

non-tribal ownerships on a property ratio, and

1-Off-reservation citizen. Reimbursement to such

individuals expenses in accordance with 2-18-501

through 2-18-503.

As stated in Treaty of 1855

Expands duties of Board members

Public hearings for input instead of comment.

Specifically outlines Board members

Landowners to be defined:

Off-reservation citizen: hunter, landowner,

etc., open-minded.

(b) doing what in its judgment is necessary by way of granting to tribal Indians state permits to hunt and fish off reservation on open and unclaimed lands, in common, and in accordance with State regulations as to seasons, permits, and stamps, to be issued without charge to the Indians who are members.

This is probably the most important of issues, and expressed widely as a concern. Uses Treaty language; any permit for the protection of certain species must be adhered to by Indians, as well as open seasons, etc.

(c) issuing jointly with the council hunting and fishing licenses, permits, and stamps on the Flathead Reservation to Indian and non-Indian, and recognized as valid for hunting and fishing throughout the State of Montana for Resident non-Indian.

Must limit sale to "On Reservation Only"; non-Indian resident.

(d) authorizing all revenues collected from sale of joint licenses, permits, and stamps on the Flathead Reservation to be remitted to the council for the purpose of a fish and wildlife program as would be carried out by the State FWP approved for State lands.

Reiterates "Reservation sale only"  
Protection of State lands as if State were in charge, and program state-wide.

(e) Transferring to the council, after state district court expenses, the remainder of fines and restitution collected in state court for fish and wildlife violations within reservation boundaries for use in a mutually approved fish and wildlife program.

Non-Indian (or Indian) taxpayers must be protected as they pay the taxes;  
Coordination between State and Tribal for State and Tribal ~~fish~~ management fish/wildlife.

EXHIBIT 33  
DATE 3-31-88  
Tribal Regulations, and Tribal lands in accordance with Tribal regulations for the protection of fish and wildlife.

(f) enforcing hunting and fishing regulations on State and fee lands on the Flathead Reservation in accordance with State-wide Regulations, and Tribal lands in accordance with Tribal regulations for the protection of fish and wildlife.

(g) violations resulting in fines, restitution, or other imposed conditions, must be in accordance with State Fish and Wildlife schedules or policies on State and fee lands

(h) that the Tribes and the State will provide equal numbers of game wardens in cross-deputization on the Flathead Reservation for the sole purpose of protection of fish and game, and for the responsibility only of redress of fish and game violations

(i) all given rights to private landowners will not be diminished in any way by this legislation or contained in the Agreement, including the right to closure of lands to trespass, hunting and fishing, including land owner permission for any representative of the Tribes and/or State for any reasons.

New  
Clarifies regulations as to State-wide for State and fee (private) lands; Regulations as to Tribal Lands

New  
Clarifies fines, etc., in accordance with State-wide on State and fee (private) lands

New  
Clarifies who will be Game Wardens; equal employment; cross deputization of both; Non-Tribal can be used off Reservation.

New  
Private landowners do not lose any rights to govern their own lands;  
Requires State/Tribal representative permission to enter lands; repeat of Eastern Montana incidence negated by language inclusion.  
Landowners have right to know who is on their lands and for what purpose.

(g) in general carrying out the purposes of this section.

Same

(2) Agreement may not be signed while the legislature is not in regular session, and must also satisfy the requirements of Title 18, chapter 11

Precluding any signing of an agreement during the period the legislature is not in session; requires legislature approval.

(3) PRIOR TO CONCLUDING ANY PROPOSED AGREEMENT UNDER THIS SECTION, THE DEPARTMENT SHALL HOLD PUBLIC MEETINGS, AFTER PROPER PUBLIC NOTICE OF THE MEETINGS HAS BEEN GIVEN AND THE PROPOSED AGREEMENT HAS BEEN MADE AVAILABLE FOR PUBLIC REVIEW, TO AFFORD INPUT ON THE CONTENTS OF THE AGREEMENT AND TO BE CONSIDERED BY THE ESTABLISHED NAMED BOARD AND/OR A VOTE BY THOSE IN ATTENDANCE AT THE HEARING(S).

Changes "comment" to "input"; Suggests that "input" will have impact

(4) THE STATE LEGISLATURE MUST HAVE THE AGREEMENT AT THE BEGINNING OF A LEGISLATIVE SESSION FOR REVIEW AND RATIFICATION DURING THE LEGISLATIVE SESSION. THE AGREEMENT MUST BE RATIFIED BY MAJORITY VOTE OF EACH HOUSE OF THE LEGISLATURE. SUCH RATIFICATION MUST BE IN ACCORDANCE WITH ANY LEGAL REQUIREMENTS.

New: Requirement agreement must be reviewed and approved by legislative bodies.

Adds clarification

OFFICE OF THE ATTORNEY GENERAL  
 FROM: Ruth E. Wahle, U.S. Ignatius, II.

(j) redress of fish and game violations shall be as follows: Tribal members will be prosecuted in Tribal Court; non-Tribal members will be prosecuted in State Court.

(k) in general carrying out the purposes of this section.

(2) An agreement may not be signed while the legislature is not in regular session, and must also satisfy the requirements of Title 18, Ch. 11.

(3) Prior to concluding any proposed agreement under this Section the Department shall hold public meetings, after proper public notice of the meetings has been given and the proposed agreement has been made available for public review, to afford input on the contents of the agreement and to be considered by the established named board and/or a vote by those in attendance at the hearings(s).

(4) The State Legislature must have the agreement at the beginning of a legislative session for review and ratification during the legislative session. The agreement must be ratified by majority vote of each house of the legislature. Such ratification must be in accordance with any legal requirements.

Omitted on previous copy

New: addresses jurisdiction of violators (Federal law does not have to be addressed since State has no jurisdiction)

Same

\* Precludes any signing of an agreement during period legislature not in session; requires legislature approval.

Adds clarification

Changes "comment" to "input"; impact.  
 A method for insuring "input".

New: Requirement agreement must be reviewed and approved by legislative bodies.

EXHIBIT 33  
 DATE 3-31-89  
 HS SB 446

\* This does not mean that an agreement may not be considered on the same basis as that used in 1988 hunting/fishing season until a more formal agreement is reached. That is: Tribal permits for all activities on Tribal Lands.



"inherent" Indian sovereignty. We believe that neither source supports the court's conclusion.

A

The purposes of the 1851 Treaty were to assure safe passage for settlers across the lands of various Indian tribes; to compensate the Tribes for the loss of buffalo, other game animals, timber and forage, to delineate tribal boundaries; to promote inter-tribal peace; and to establish a way of identifying Indians who committed depredations against non-Indians. As noted earlier, the Treaty did not even create a reservation, although it did designate tribal lands. See *Crow Tribe v. United States*, 284 F.2d 361, 364, 366, 368 (Ct.Cl.). Only Article 5 of that Treaty referred to hunting and fishing, and it merely provided that the 8 signatory tribes "do not surrender the privilege of hunting, fishing, or passing over any of the tracts of country heretofore described." 11 Stat. 749.<sup>6</sup> The Treaty nowhere suggested that Congress intended to grant authority to the Crow Tribe to regulate hunting and fishing by non-members on non-member lands. Indeed, the Court of Appeals acknowledged that after the Treaty was signed non-Indians, as well as members of other Indian tribes, undoubtedly hunted and fished within the treaty-designated territory of the Crows. 604 F.2d, at 1167.

The 1868 Fort Laramie Treaty, 15 Stat. 649, reduced the size of the Crow territory designated by the 1851 Treaty. Article 2 of the Treaty established a reservation for the Crow Tribe, and provided that it be "set apart for the absolute and undisturbed use and occupation of the Indians herein named and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them \* \* \*," (emphasis added) and that "the United States now solemnly agrees that no persons, except those herein designated and authorized so to do \* \* \* shall ever be permitted to pass over, settle upon or reside in the territory described in this article for the use of said Indians. \* \* \*." The treaty, therefore, obligated the United States to prohibit most non-Indians from residing on or passing through reservation lands used and occupied by the Tribe, and, thereby, arguably conferred upon the Tribe the authority to control fishing and hunting on those lands.<sup>7</sup> But that authority could only extend to land on which the Tribe exercises "absolute and undisturbed use and occupation." And it is clear that the quantity of such land was substantially reduced by the allotment and alienation of tribal lands as a result of the passage of the General Allotment Act of 1887, 25 U.S.C. § 331 et seq., and the Crow Allotment Act of 1920, 41 Stat. 751. If the 1868 Treaty created tribal power to restrict or prohibit non-Indian hunting and fishing on the reservation, that power cannot apply to lands held in fee by non-Indians.

6. The complaint in this case did not allege that non-Indian hunting and fishing on reservation lands has impaired this privilege.

7. Article IV of the Treaty addressed hunting rights specifically. But that Arti-

cle referred only to "unoccupied lands of the United States," viz., lands outside the reservation boundaries, and is accordingly not relevant here.

In Puyallup Tribe v. Washington Game Department, 433 U.S. 165 (Puyallup III), the relevant treaty included language virtually identical to that in the 1868 Treaty of Fort Laramie. The Puyallup Reservation was to be "set apart, and, so far as necessary, surveyed and marked out for their exclusive use \* \* \* [and no] White man [was to] be permitted to reside upon the same without permission of the tribe. \* \* \*"  
See id., at 174. The Puyallup Tribe argued that those words amounted to a grant of authority to fish free of State interference. But this Court rejected that argument, finding, in part, that it "clash[ed] with the subsequent history of the reservation \* \* \*," ibid., notably two acts of Congress under which the Puyallups alienated, in fee simple, the great majority of the lands in the reservation, including all the land abutting the Puyallup River. Thus, "[n]either the Tribe nor its members continue to hold Puyallup River fishing grounds for their 'exclusive' use." Ibid. Puyallup III indicates, therefore, that treaty rights with respect to reservation lands must be read in light of the subsequent alienation of those lands. Accordingly, the language of the 1868 Treaty provides no support for tribal authority to regulate hunting and fishing on land owned by non-Indians.

*Congressional action*

The Court of Appeals also held that the federal trespass statute, 18 U.S.C. § 1165, somehow "augmented" the Tribe's regulatory powers over non-Indian land. [The Supreme Court held that section 1165, which makes it a federal offense to enter Indian lands to hunt or fish without permission, is limited to lands held in trust.]

*18 U.S.C. 1165*

*tribal hunting & fishing rights - subject to treaty - Indians allowed to hunt & fish on reservation*

B

Beyond relying on the Crow Treaties and 18 U.S.C. § 1165, as source for the Tribe's power to regulate non-Indian hunting and fishing on non-Indian lands within the reservation. The Court of Appeals \* \* \* identified that power as an incident of the inherent sovereignty of the Tribe over the entire Crow reservation. But "inherent sovereignty" is not so broad as to support the application of Resolution No. 74-05 to non-Indian lands.

This Court most recently reviewed the principles of inherent sovereignty in United States v. Wheeler, 435 U.S. 313. In that case, noting that Indian tribes are "unique aggregations possessing attributes of sovereignty over both their members and their territory," id., at 323, the Court upheld the power of a tribe to punish tribal members who violate tribal criminal laws. But the Court was careful to note that, through their original incorporation into the United States as well as through specific treaties and statutes, the Indian tribes have lost many of the attributes of sovereignty. Id., at 326. The Court distinguished between those inherent powers retained by the tribes and those divested:

The areas in which such implicit divestiture of sovereignty has been held to have occurred are those involving the relations between an Indian tribe and non-members of the tribe. \* \* \*

*have*

*again - Indians allowed hunting & fishing nearly 75 years ago w/o tribal permit.*



through commercial dealing, contracts, leases, or other arrangements. Williams v. Lee, 358 U.S. 217, 223; Morris v. Hitchcock, 194 U.S. 384; Buster v. Wright, 135 F. 947, 950 (CA8); see Washington v. Confederated Tribes of the Colville Indian Reservation, 447 U.S. 134, 153. A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe. See Fisher v. District Court, 424 U.S. 382, 386; Williams v. Lee, 358 U.S. 217, 220; Montana Catholic Missions v. Missoula County, 200 U.S. 118, 128-129; Thomas v. Gay, 169 U.S. 264, 273.<sup>15</sup>

Individuals could have leases for hunting & fishing etc.

That agreement is not to be made by a State of non-Indian

No such circumstances, however, are involved in this case. Non-Indian hunters and fishermen on non-Indian fee land do not enter any agreements or dealings with the Crow Tribe so as to subject themselves to tribal civil jurisdiction. And nothing in this case suggests that such non-Indian hunting and fishing so threatens the Tribe's political or economic security as to justify tribal regulation. The complaint in the District Court did not allege that non-Indian hunting and fishing on fee lands imperils the subsistence or welfare of the Tribe. Furthermore, the District Court made express findings, left unaltered by the Court of Appeals, that the Crow Tribe has traditionally accommodated itself to the State's "near exclusive" regulation of hunting and fishing on fee lands within the reservation. United States v. Montana, supra, 457 F.Supp. at 609-610. And the District Court found that Montana's statutory and regulatory scheme does not prevent the Crow Tribe from limiting or forbidding non-Indian hunting and fishing on lands still owned by or held in trust for the Tribe or its members. Id., at 609.

Prohibits State from

Note

Are there any ways in which the Court departed from the normal principles of treaty construction? Should regulation of resources such as wildlife have "some direct effect on the political integrity, the economic security, or the health or welfare of the tribe" as a per se matter? Earlier in the opinion the Court stated that "at the time of the treaty the Crows were a nomadic tribe dependent chiefly on buffalo, and fishing was not important to their diet or way of life." See page 194, supra. Would the result as to tribal jurisdiction be different for a fishing tribe? Leaving aside the holding in the case, is the "tribal interest" test employed in Montana an appropriate vehicle to resolve the competing interests at stake in issues of tribal jurisdiction over non-Indians?

15. As a corollary, this Court has held that the Indian tribes retain rights to river waters necessary to make their reservations livable. Arizona v. California, 373 U.S. 546, 599.

State by any stretch of the imagination cannot agree to give any rights of non-Indian land ownership by such an agreement; nor Indian law the State's given. Tribal Court states & non-Indian respect those already in place, as specifically stated. First of Indians on, Indians -

March 31, 1987

EXHIBIT 35

DATE 3-31-89

HB SB 446

Montana State  
House of Representatives  
Judiciary Committee  
Senate Bill 446 Hearing

SB 446 must be killed, unless it is amended to exclude non-tribal citizens and private lands from tribal jurisdiction and tribal court.

This amendment must be added to 446, and any agreements reached under the bill.

Amend, or vote "No" on 446.

Ruby Gene Cooney  
1468 Meadowlark St.  
Big Arm, Montana

March 30, 1989

To Representatives of the House Judiciary Committee

Dear Sirs:

Subject: Senate Bill 446

We do not object to the State through the Game Dept. negotiating an agreement with the Tribes on hunting and fishing. We do strongly object to the method in which it was done.

Therefore, Senate Bill 446 should be defeated.

Session Law 18-11-107 through 18-11-111 was enforced when the Tribes and Fish and Game Dept. negotiated the agreement on hunting and fishing in 1987-1988. However the agreement did not meet the requirements of the Session Laws.

Senate Bill 446 was introduced to change the law to fit the agreement. Vote "No" on 446 and negotiate another agreement under the present Law.

Do not change the law to fit an agreement.

Governor Stan Stevens

Sincerely  
Agnes C. Rockwell  
G.W. Rockwell

April 1, 1989

EXHIBIT 37  
DATE 3-31-89  
HB SB 446

Chairman House Judiciary Committee  
State Capitol  
Helena, MT 59601

Dear Legislators:

From what I can glean from the news, I feel I must comment on a few things and explain partially why I am opposed to Senate Bill 446.

First of all, I come from a reservation area and am aware of many of the current and past failures of current and past Federal Indian Policy. When the show of power suits the tribes, they pound their chest and proclaim sovereignty. When they want another government grant or welfare from the State, they are "poor Indians".

Let's look at the results of "failed Federal Indian Policy" today.

- 1.) The crime rate. - From 4 to 10 times that of their neighbors.
- 2.) Health problems. - From 2 to 4 times more incidents of common diseases.
- 3.) Life expectancy. - Several years behind that of their neighbors. A result of #1 and #2 above.
- 4.) Education. - There is no place (i.e. job market) to use an advanced education on the reservation and therefore people live in despair as they are encouraged to remain on the reservation.
- 5.) Alcoholism. - Again 2 to 4 times that of their neighbors and a cause and effect of all the above.

I am opposed to 446 because it will help increase the above statistics and the burden of support will fall on the taxpayers of Montana eventually. I am opposed to 446 because I do not want to be a continuing contributor to the delinquency of the Indian People of Montana via my state legislature.

Further, tribes state they have a "treaty" with the U.S. Government. Equally does everyone - Indians and Non-Indians alike - have a "treaty" with our government. The Constitution is my agreement, my contract, my "treaty" with my government, and I'd like to go through with you a few of the areas of the Constitution pertinent to this matter.

- 1.) Article I, Section II, 3. - When setting up the House, representatives were to be chosen by population, "... excluding Indians not taxed, ...". - Are the Indians taxed in the normal way in Montana? Are they not enjoying representation without taxation?

Are they not now acting on laws which will not concern or include them or govern them?

2.) Article I, Section VIII, 3. - Congress has the power "to regulate commerce with foreign nations, and among the several States and with the Indian tribes." Is that sovereignty? Does that give any power to the states to deal with the Indian tribes?

3.) Article I, Section X, 1. - "No state shall enter into any treaty, alliance, or confederation; ...". (Check your dictionary!) Article I, Section X (again), 3. - "No state shall, without the consent of Congress, ...enter into any agreement or compact with another State, foreign power, ...".

For the sake of the Indian People, this charade has to stop. The only ones prospering from this whole tangled web is the BIA bureaucracy, attorneys and a few tribal leaders, while the average Indian is continuously sentenced to a life of despair.

The 14th Amendment should also be used here if the tribal people are under the jurisdiction of Montana. If they aren't under the jurisdiction of this state, they should not be allowed representation by this state. (14th Amendment - "...nor deny any person within its jurisdiction the equal protection of the laws.")

Citizenship is something that I hold dear to my heart. As citizens we have rights and responsibilities. The Constitution was drafted well before the Hellgate Treaty and that treaty cannot be used to circumvent or violate our Constitution. Our forefathers did not intend this, nor did the Indian forefathers.

Sincerely,



Terri Winter  
3101 South Russell  
Missoula, Montana 59801

BIRD HUNTING AND FISHING ON THE FLATHEAD RESERVATION

STATE-TRIBAL COOPERATIVE AGREEMENT BETWEEN  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE  
FLATHEAD RESERVATION AND THE STATE OF MONTANA BY  
AND THROUGH THE DEPARTMENT OF FISH,  
WILDLIFE AND PARKS OF THE STATE OF MONTANA

This Agreement is made pursuant to the provisions of the  
State-Tribal Cooperative Agreement Act, Chapter 309 of the  
Montana Session Laws of 1985 (Section 18-11-101 et seq.,  
MCA) Article VII, and Section 1(c) of the Constitution of  
the Confederated Salish and Kootenai Tribes of the Flathead  
Reservation, which was approved by the Secretary of the  
Interior on October 28, 1935. The State of Montana, acting  
through its Department of Fish, Wildlife and Parks and the  
Confederated Salish and Kootenai Tribes are the parties to  
this Agreement.

RECITALS

A. The Treaty of Hellgate of July 16, 1855, 12 Stat.  
975, of the Confederated Salish and Kootenai Tribes of the  
Flathead Indian Reservation (hereafter "Tribes") states  
that:

The exclusive right of taking fish in all streams  
running through or bordering said reservation is  
further secured to said Indians; as also the right  
of taking fish at all usual and accustomed places,  
in common with citizens of the Territory, and of  
erecting temporary buildings for curing; together  
with the privilege of hunting, gathering roots and

berries, and pasturing their horses and cattle upon open and unclaimed land.

Based in part upon this language the Tribes' claim the exclusive jurisdiction to license, regulate and control hunting and fishing activities throughout the Reservation.

B. The State of Montana (hereafter "State") claims the jurisdictional authority to license, regulate and control certain hunting and fishing activities engaged in by non-Indians on lands and waters within the exterior boundaries of the Reservation.

#### PURPOSE OF AGREEMENT

A. The parties agree that the Reservation fish and wildlife resources are finite, renewable natural resources that must be protected and managed in their natural habitat in a way that will enhance their ability to be self-sustaining.

B. The parties further agree that substantial resolution of the fundamental governmental and jurisdictional differences may be achieved by mutual consent of the Tribes and State. Without conceding any ultimate jurisdictional issues, the parties desire to negotiate a settlement of certain issues so that all persons may be advised of the applicable fishing and hunting requirements on the Reservation.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

BILL NO. SB 446

DATE MARCH 31, 1989

SPONSOR SEN. YELLOWTAIL

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
FW. Rockwell	ALL citizens EQUAL		X
AGNES Rockwell	ALL CITIZENS EQUAL		X
STAN RYAN	PRIVATE LAND-SELF		X
Lucy Cochran <sup>SB</sup> HH6	Self		X
John Cochran <sup>JB</sup> HH6	Private Land-SELF		X
John F. Cameron <sup>SB</sup> 496	<sup>ACE</sup> Polson Outdoors		X
Jacque A. Morigeau	CONFederated & Kootenai	X	
Antoinette Inashola	Cartersville & Kootenai TRIBES	X	
Francine Black	" "	X	
Raymond McDonald	" " " "	X	
Terri Shaw	" "	X	
Cheryl Mathias	American Indian CSCT	X	
Cathy Wynne Mathias	CS&KT	*	
Loretta Andrew-Wall	CS+KT	<del>X</del>	
Diane Cline	CS+KT	<del>X</del>	
Nichol Z. Dunlop	CS&KI	<del>X</del>	
Glenrose A. Bird	CS&KT	X	
Frank L. Bird	CS&KT	X	
Tom Antiste	CS&KT	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

House Judiciary

COMMITTEE

BILL NO. SB 446

DATE March 31, 1989

SPONSOR Sen. Yellowtail

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Sue Artiste	C S & KT	✓	
Mae Cannon	C S & KT	✓	
Renall L. MATT	Flathead	✓	
Gregory T. Dupuis	Flathead Res.	✓	
Rosemary Caye	CS & Kootenai TRIBES	✓	!
Desmond J. Joseph	CS & KT TRIBES	✓	
Charice H. Cooper	CS & KT TRIBES	✓	
Marion Joseph	CS & KT TRIBES	✓	
Ruby Dayzjie	Flathead Res.	✓	
Jonia Jorgenson	Flathead Res.	✓	
Lucinda Curtis	Flathead Res.	✓	
Paula Beckman	Flathead Res.	✓	
Lillian Little	Flathead Res.	✓	
Laura Holland	Polson		✓
Harry Holland	Polson		✓
Shirley Cramer	Polson		✓
Ruby Ann Caye	Big Arm MT		✓
Jack Bruner	Dixon MT		✓
Walt Dupuis			✓

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COMMITTEE ON HOUSE JUDICIARY - SB 446 (SEN. YELLOWTAIL)

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Bill Covey	Myself	446		<input checked="" type="checkbox"/>
John C. Cochran	SELF	446		<input checked="" type="checkbox"/>
Ruth Mable	Myself	*446		<input checked="" type="checkbox"/>
Herbert J. Mable	MYSELF	446		<input checked="" type="checkbox"/>
Douglas Jameson	myself	446		<input checked="" type="checkbox"/>
Richard Jameson	myself	446		<input checked="" type="checkbox"/>
Robert Shaw	myself	446		<input checked="" type="checkbox"/>
STAN RYAN	SELF - PRIVATE LAND	446		<input checked="" type="checkbox"/>
John E. Cramer	Self - Private land	446		<input checked="" type="checkbox"/>
<del>John C. Cochran</del>	<del>Self</del>	<del>446</del>		<input checked="" type="checkbox"/>
Ruge Roullier	Self	*446	<input checked="" type="checkbox"/>	
Maile J. O'Brien	Self	446	<input checked="" type="checkbox"/>	
Mike Smith	self	446	<input checked="" type="checkbox"/>	
Dick Wallin	Self	446	<input checked="" type="checkbox"/>	
Elwin Banning	self	446	<input checked="" type="checkbox"/>	
Brad Spear	self	446		<input checked="" type="checkbox"/>
Tarrey Johnson	self	446		<input checked="" type="checkbox"/>
Don Alley	Trout Unlimited	446	<input checked="" type="checkbox"/>	
Don Boldt	BIA	446	<input checked="" type="checkbox"/>	
ERIN DAVIS	Myself (Rep <sup>Dist</sup> 53)	446	<input checked="" type="checkbox"/>	
Mary Ann Schmitz	Myself	446		<input checked="" type="checkbox"/>
Lee Jacobs	Myself	446		<input checked="" type="checkbox"/>
Don Ferguson	Lake County	446	<input checked="" type="checkbox"/>	
Wick P. ...	SD # 27	446	<input checked="" type="checkbox"/>	
Paul E. Wynn	Big Sky Colony - See	446		<input checked="" type="checkbox"/>

DATE March 31, 1989 4 of 6

COMMITTEE ON HOUSE Judiciary - SB 446 (SEN. YELLOWTAIL)

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
V. M. Muller	Self	446		X
Stan Bradshaw	MT. Fill.	446	✓	
ROBERT SCITMITZ	SELF	446		X
RON MARCOUX	FWP	446	✓	
K. L. Cool	"	"	✓	
Jean Clark	self	446		✓
Tim J Reineking	trout unlimited	446	✓	
Del Palmer	Charlo	446		✓
Rob Braach	Western MT Fish + Game Assn	446		✓
James M. Clawson	western MT Fish & Game Assn	446		✓
Beth Steen	Western mt.	446		✓
Russell Steen	" "	446		"
PAUL JOHNSON	EAST SLOPE TAXPAYERS	446		✓
Doyd EVANS	" " "	446		✓
Jay Hart	" " "	446		✓
Valerie Larson	Farm Bureau Choteau	SB446		✓
HARRY E NOEL JR	SELF	446		✓
PATRICIA C NOEL	SELF	446		✓
DAN & CARRIE JENSEN	SELF	446		✓
Ted SCHWINDEN	"	446	✓	
Ethel M Harding	Senate Dist #25	446	✓ w/A	
Glenn Marx	Governor's office	446	X	
Don CHANCE	MONTANA WILDLIFE FED.	446	✓	
Ed McHugh	SELF	446		X
Per Vicki Cadiarella		446	X	
Lynn Blumner	Self	446	X	
Angela Russell	#D 99	446	X	

(Please leave prepared statement with Secretary)

VISITORS' REGISTER

House Judiciary

COMMITTEE

BILL NO. SB 446

DATE March 31, 1989

SPONSOR Sen. Yellowtail

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mik MARMON	Ronan		<input checked="" type="checkbox"/>
Dave MARMON	Ronan		<input checked="" type="checkbox"/>
Dick Swartz	Arlee		<input checked="" type="checkbox"/>
Judd Muehle	St. Ignatius		<input checked="" type="checkbox"/>
Bob FERVAIS	Brownrig	<input checked="" type="checkbox"/>	
Confederated Salish & Kootenai Tribes		<input checked="" type="checkbox"/>	
Michael T. Pardo, Chairman			
Joseph Dupuis, Exec Sec			
Tribal Atty			
Brenda Desmond	Missula Mt	<input checked="" type="checkbox"/>	
Bill BARBA	Polson	WITH AMMEND	<input checked="" type="checkbox"/>
Dee Barba	Polson		<input checked="" type="checkbox"/>

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

