

MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

January 12, 1977

The second meeting of the Fish and Game Committee was called to order by Chairman Frank Dunkle, at 8:00 A.M., in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 15: (An act naming the black-spotted cutthroat trout as the state fish.)

Senator Margaret S. Warden, who sponsored the bill, presented her statement. (Attachments #1 & #2)

Dr. Robert F. Wambach, Director of the Fish and Game Department, spoke, announcing the Department's support of the bill.

Identification of the blackspotted cutthroat trout, referred to in SB 15 as *Salmo clarki*, was explained by Art Whitney, Chief of Fisheries of the Fish and Game Department. (Attachment #3). It was noted that *Salmo clarki* covers all kinds of cutthroat trout and the blackspotted cutthroat is a sub-species.

Senator Manley made a motion to pass SB 15. The motion was seconded by Senator Richard Smith. Roll call vote was taken and SB 15 was carried unanimously DO PASS.

Chairman Dunkle stated SB 47, an act to provide for the management of the bobcat as a game animal, has been posted and will be heard on Friday, January 14.

Senator Dunkle also announced that SB 52, an act to prohibit the carrying or use of air rifles by minors under the age of 14 years except when accompanied by a parent or guardian or supervised by a firearms safety instructor, will be posted and heard on Monday, January 17.

Dr. Robert Wambach requested that Mr. Wes Woodgerd of the Fish and Game Department, conduct a discussion of the pre-filed bills originating with the Department.

Mr. Woodgerd introduced Mr. Woody Wright, Staff Attorney with the Fish and Game Department, who briefly outlined eight pieces of legislation being proposed by the Department. (Attachment #4).

Chairman Dunkle suggested that the committee review the proposed legislation presented by the Fish and Game Department and consider them on Friday, January 14.

ADJOURNMENT: Chairman Dunkle adjourned the meeting at 9:10 A.M.



Frank Dunkle  
FRANK DUNKLE, CHAIRMAN

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## ROLL CALL

FISH AND GAME COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 1-12-77

DATE

1-12-76

COMMITTEE ON

## FISH AND GAME

BILL NO. 151

## VISITOR'S REGISTER

Senator Dunkle and members of the Fish and Game Committee:

I am Sen. Margaret S. Warden, District 18, Great Falls. I am the sponsor of S.B. 15, which proposes to name the blackspotted cutthroat trout as the official Montana State Fish.

This summer I was contacted to see if I would sponsor a bill for the official fish for Montana. When the Fish and Game Dept. held open house in several places in the state on Sept. 25, ballots were provided to cast a vote for the fish. On the "Today in Montana Show", hosted by Norma Ashby, a number of other ballots were received. Some 917 votes were cast for 23 species of fish coming from 64 Montana towns, and 4 out-of-state areas. The blackthroated cutthroat received 520 votes. Its closest competitor was the Montana Grayling with 200 votes. In my handout are the other contenders.

Selection criteria were: Native to Montana; not already adopted by another state; well accepted by the people; be a game fish; distinctive in appearance; and in more than one area of the state.

On June 13, 1805, Capt. Meriwether Lewis discovered the Great Falls of the Missouri. That same day Goodrich had caught half a dozen very fine trout. These trout (caught in the falls) are from 16 to 23 inches in length, precisely resemble our mountain or speckled trout in form and the position of their fins, but spots on these are of a deep black instead of the red or gold colour of those common to the United States. These are furnished long sharp teeth on the pallet and tongue and have generally a small dash of red on each side behind the front ventral fins; the flah is of a pale yellowish red, or when in good order, of a rose red. This was written in the Lewis and Clark Journal: English naturalist, John Richardson, described it in 1836, and supplied its technical name, *Salmo Clarkii*, "as a tribute to the memory of Captain Clarke who noticed it in the narrative prepared by

years later, the Philadelphia naturalist, Charles Girard, named the cutthroat from specimens collected at Great Falls, Solar lewisii. Thus both captains received recognition for this beautiful fish, although Clark's technical name is first choice.

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As a student of Montana history particularly interested in the Lewis and Clark expedition, I feel that this fish is worthy to be designated as the State Fish of Montana.

I wish to present Art Whitney, Fisheries Administrator of the Montana Fish and Game Dept.

# MONTANA ENVIRONMENTAL QUALITY COUNCIL

CAPITOL STATION

HELENA, MONTANA 59601

JOHN W. REUSS, EXECUTIVE DIRECTOR

Attachment #2

V. THOMAS L. JEDDE  
(LEGISLATIVE REPRESENTATIVE)  
STEVE D. GRIFFIN

HOUSE MEMBERS

THOMAS G. HAKER, CHAIRMAN  
WILLIAM R. DAY  
GARY N. KINBLE  
A. T. RASMUSSEN

SENATE MEMBERS

LARRY M. ABER  
TERRY MURPHY  
ED B. SMITH  
MARGARET S. WARDEN

APPOINTED MEMBERS  
G. W. DECHAMPS  
CHARLES DONAHUE  
HARVEY MAYHEW  
JACK D. PHEBUS

## Senate Bill 15

This bill proposes to name the blackspotted cutthroat trout (*Salmo clarki*; sub-species, *lewisi*) as the official Montana state fish. A native of Montana, the blackspotted cutthroat trout was first observed and reported by Lewis and Clark near the Great Falls of the Missouri. Originally, it was abundant in all streams in, or adjacent to the mountains in Montana on both sides of the Continental Divide. At present, its distribution east of the divide is limited to a few scattered locations with many streams containing only small populations in the extreme headwaters. More numerous in the west, the cutthroats major stronghold is in the Bob Marshall Wilderness Area. Their natural range extends from Alaska to southern California and east through the inter-mountain area.

The preferred habitat of the cutthroat are mountain streams and lakes since the species requires a high water quality for survival. Similar to other trout species they feed primarily on aquatic insects. Their slender, slightly rounded body is greenish blue to steel gray on the back and side, with densely blackspotted areas toward the back fin which distinguish them from the Yellowstone cutthroat. The red slash along the jaw, characteristic of the cutthroat, separates it from the rainbow trout. The approximate average length of a four-year old trout is ten inches.

The Fish and Game Department conducted a survey of Montana anglers

in which 917 votes were cast from 64 Montana towns, both east and west of the divide, and four states. The fishermen indicated the blackspotted cutthroat trout as the favorite and ranked the grayling as second choice. A possible alternative for the official state fish, the grayling is more unique to the state since of the fifty states it exists only in Montana and Alaska. It is also more easily identifiable than the blackspotted cutthroat trout which can be confused with other cutthroat species and which occasionally hybridize with rainbow trout where the two species intermingle.

In a column by Art Whitney, administrator of the Fisheries Division of the Fish and Game Department, he endorses the blackspotted cutthroat trout as follows: "Probably more than any other species, the cutthroat trout symbolizes the quality we are striving for as a people in Montana. Just as this fish requires a quality habitat if he is to survive, Montanans as a people are striving for a quality of life already lost in many parts of this nation. Naming the blackspotted cutthroat trout as Montana's state fish will be just another indication that the people in this state will settle for nothing but the very best in protecting the Montana way of life we are all dedicated to preserving."

References:

Fisheries of Montana, Dr. C.J.D. Brown

Art Whitney, Fisheries Division of the Fish and Game Dept.

State Fish Campaign, press release from Norma Ashby, Nov. 16, 1976.

This report was prepared for Senator Margaret Warden by the Environmental Council's Legislative Unit.

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January 6, 1977

STATEMENT PRESENTED TO SENATE FISH AND GAME COMMITTEE  
JANUARY 12, 1977 IN SUPPORT OF SENATE BILL 15

By Arthur N. Whitney, Fisheries Division Administrator  
Montana Department of Fish and Game

Montana, with the finest stream fishery resource left in the nation, is long overdue in designating a state fish. We've probably not chosen one before because the choice isn't easy. There are so many popular species of fish that it is tough to single out one species for this special recognition.

We could pick the Dolly Varden because it's the largest trout, the paddlefish as perhaps the oldest resident, the rainbow trout as the most widespread, the brown trout because he is the smartest, the walleye or sauger because they are the tastiest, the cutthroat because he needs the highest water quality to survive, or the grayling as the most unique to our state.

If we decide to consider native species, we can shorten this list considerably by dropping out the introduced brown and rainbow trout. We also could drop the Dolly Varden because he is found only west of the divide and surely Montana's state fish should be more widespread than merely in a few of our drainages.

A key element in choosing the state fish obviously should be public opinion. This was recently sampled, and the public overwhelmingly listed the black-spotted cutthroat as a favorite. The Montana grayling was second, but even it was far behind the black-spotted cutthroat.

Either species would be an excellent choice. They have some points of similarity, but each also has some special qualities. Both fish were first described by Lewis and Clark — the cutthroat from a place near Great Falls on the Missouri and the grayling from the upper Beaverhead River. Consequently there is no doubt they are both truly natives to our waters.

The grayling is more unique to Montana. In the contiguous 48 states, this fish originally existed only in Montana and Michigan. Michigan's grayling are now extinct and ours are much restricted from their former range. Montana and Alaska are now the only states in the United States to have grayling.

The cutthroat, not as unique to Montana as the grayling, also has been reduced from its original range. Both fish were originally found to be widespread in Montana streams. East of the continental divide we had cutthroat, grayling, and whitefish in our rivers, and west of the divide, cutthroat, Dolly Varden and whitefish. Early observers of Montana fish life would notice quite a change in the ranges of both these species if they could visit Montana today. We've warmed and muddied their waters by our developments and we've given them severe competition by our introductions of nonnative fish such as brook, rainbow and brown trout.

Such changes have all but eliminated the grayling from its original streams and it survives today throughout Montana's mountainous areas by virtue of having been introduced into mountain lakes. Except for the upper Big Hole River and some streams in the Red Rocks Refuge, viable stream populations of grayling no longer exist in Montana.

The same is not quite so true with the cutthroat. Like the grayling, he has disappeared in many of the lower drainages and is now found in some of our headwater streams where habitat quality has been little affected by man's activities. Various races of cutthroat trout inhabit western mountain drainages all the way from California to Alaska, and at least one other state has already chosen one race of cutthroat as its state fish.

In Montana, as elsewhere, the cutthroat hybridizes readily with rainbow and where the two species intermingle, many hybrids occur. Cutthroat, however, still maintain pure populations in a few headwater stream drainages and thus provide popular sport fisheries in those areas.

Either the cutthroat or grayling would be an excellent choice for Montana's state fish. Both are natives of Montana and both require the high water quality which depends upon wise use of land and other natural resources. Montana, perhaps more than any other state, is presently striving to preserve those values.

Probably more than any other species, the cutthroat trout symbolizes the quality we are striving for as a people in Montana. Just as this fish requires a quality habitat if he is to survive, Montanans as a people are striving for a quality of life already lost in many parts of this nation. Naming the black-spotted cutthroat trout as Montana's state fish will be just another indication that the people in this state will settle for nothing but the very best in protecting the Montana way of life we are all dedicated to preserving.

## PROPOSED DEPARTMENT OF FISH AND GAME LEGISLATION

(1) A proposal to amend the Water Use Act to allow for appropriation of water rights for wildlife or recreational uses. As the Water Use Act now specifies, neither an appropriation of water for fish, wildlife, or recreational use nor a change of water right to these uses may be granted unless the water is diverted, impounded, or withdrawn. This proposed legislation will remove the requirement to divert, impound, or withdraw water before appropriating a water right or changing an existing water right for fish, wildlife, or recreation by the Department of Fish and Game.

(2) A proposal to require taxidermists to keep records of wildlife for a period of five years. This proposal will also amend the current law by requiring taxidermists to keep records of all wildlife in their possession (rather than just game animals) and also gives the courts discretion in revocation of license upon conviction replacing the present mandatory revocation.

(3) A proposal to facilitate placement of wildlife on the Montana endangered species and "species in need of management" lists. This proposal will amend the Nongame and Endangered Species Conservation Act by making the requirement for legislative approval part of the department's rule-making procedure rather than requiring separate legislative approval before adding or deleting from the endangered species or "species in need of management" lists.

(4) A proposal to clarify requirements for private and commercial fish pond licenses by amending Section 26-306 in the following manner:

- (a) Makes it mandatory that any person who desires to stock fish in an artificial lake or pond must apply for a private pond license.
- (b) Prohibits the use of chemicals or explosives in taking fish from a private lake or pond.
- (c) Provides a new definition for artificial lake or pond to provide for private pond licensing only on artificial ponds and only where the creation and/or operation of such ponds will not reduce the potential capacity of natural water to provide public fishing.
- (d) Provides that a pond license shall be valid only for five years from the date of issue.
- (e) Provides a new Section 26-306.1 that creates a commercial fish pond license. This license has an initial fee of \$50 and a renewal fee of \$5 annually. These fees are to pay for the administrative costs involved in administering the licensing function. This proposal sets forth in detail, by law, provisions that in the past have been handled by administrative direction, which at times has been unclear.

(5) A proposed amendment to prohibit the use of vehicles, including helicopters, to harass wildlife. This proposal will add "helicopters" to that section of the existing law which prohibits the use of aircraft, power boats, sailboats, and other boats and floating devices for the purpose of concentrating, pursuing, driving, rallying, or stirring up game, game birds, migratory game, or fur-bearing animals.

The amendment will add a new subsection which reads as follows: "It is unlawful for a person to use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife except predators of this state, providing that this subsection does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property."

(6) A proposed amendment which clarifies the existing fish and game statutes relating to hunting and fishing licenses. This amendment will simplify the license structure, modify certain definitions, and establish an administrative fee. It will not modify existing licenses and fees.

(7) A proposal to revise the statutes relating to permits for breeding and propagating game birds and animals by amending Section 26-1201 in the following ways:

- (a) Provides for a \$25 fee for a game farm permit.
- (b) Establishing the fencing requirement to prevent the mixing of confined animals with the wild or public animals.
- (c) Provides that game farm permits expire in five years.
- (d) Defines a game farm permit as restricted to nonsport activities and not a substitute for a shooting preserve permit.
- (e) Requiring that each game animal within a game farm be adequately numbered, tagged, branded or tattooed.
- (f) Requiring that reports be submitted to the director on or before January 31 of each year.

A fee proposal is to bear the cost of the administration of this license. The marking, tagging, branding proposal is to give enforcement control over the products of a licensed game farm. The proposal distinguishes game farm permits from shooting preserves.

(8) A proposed amendment to authorize the department to use part of the fishing license fees earmarked for purchase of fishing access for development, operation, and maintenance of "...fishing accesses, stream, river and lake frontages and the land deemed necessary to provide recreational use thereof." This proposal will amend the existing law to read as follows: "The amount of funds used for operation, development, and maintenance may not exceed 15 percent of the monies set aside each year under this section."

# STANDING COMMITTEE REPORT

.....January 12,.....19.....77

MR. ....PRESIDENT.....

We, your committee on .....FISH AND GAME.....

having had under consideration .....SENATE..... Bill No. ....15.....

Respectfully report as follows: That.....SENATE..... Bill No. ....15.....

DO PASS

SENATE COMMITTEE FISH AND GAME

Date 1-18-79

Bill No.

Time 8:30 AM

Sharon (Riskens) Smith  
Secretary

FRANK DUNKLE  
Chairman

**Motion:** *That the motion be referred to the Standing Committee on the Status of Women.*

(include enough information on motion—put with yellow copy of committee report.)