

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 19, 1983

The meeting of the Fish and Game Committee was called to order by Chairman Ed B. Smith on March 19, 1983 at 1:05 P.M. in Room 325, State Capitol.

ROLL CALL: Roll was called with all members present.

CONSIDERATION OF HOUSE BILL NO. 836:

TO DEFINE THE MOURNING DOVE AS A MIGRATORY GAME BIRD

Chairman Smith furnished the committee with a letter from Chris G. McEwan in favor of this bill. A copy is attached as Exhibit 1.

Representative Jensen, District #66, Billings, presented this bill to the committee. As stated in the title, it is clear as to what this bill does and what it says is exactly what the bill pertains to and no more. This would allow the Fish and Game Commission to adopt authority under 87-2-101. The language on page 2, lines 15-20 refers to the mourning dove. He explained to the committee constraint is placed on the state and federal hunting regulations and federal law dealing with migratory fowl. We may not open the season prior to the first day of September pursuant to a Fly Way Treaty between Canada, the United States and Mexico. He provided the committee with a copy (Exhibit 2) of federal hunting regulations pertaining to mourning dove control. The season, bag limits, etc., are provided in the Federal Register.

Jim Flynn, Department of Fish, Wildlife and Parks, gave testimony in support of this bill. A copy of his written testimony is attached as Exhibit 3.

John Coutu, Helena, Montana, supports this bill. He left the state for several years and returned in 1974 and has lived in the state since that time. During his years away from the state he had the privilege of hunting doves in four western states and Mexico. Contrary to what you may be lead to believe, he considers the doves to be the best eating of all game birds. In 1969 he was invited to hunt doves in Mexico on a farm where wheat and sugar cane were raised. The doves were considered a pest in that area. Flocks of 2,000 birds were not uncommon. He was told that if you do not keep these birds stirred up they could clear out an 80 acre field of wheat in 4 hours. In that period of time he saw hundreds of birds shot and left to lay in the field. The Mexican people consider it fertilizer. If a few of these fine birds end up in Montana frying pans, instead of rotting in the Mexican fields, he is in favor of this bill.

Ken Knutson, representing the Montana Wildlife Federation, urges the committee to support HB 836.

Robert VanDerVere, Helena, Montana, believes this bill should pass. He has been denied the hunting of doves while other states allow them to be shot. This would be a good money getter for the simple reason that there is a tax on the gun and ammunition. In the western states they usually have three or four hatches and in Mexico and California they can have as many as 10 hatches in a year. Each hatch produces two to four birds.

James T. Meloy, served in the Senate in 75 and 77 and this same bill was one of his pet bills. The reason he introduced the bill was his constituency consisted of a lot of sportsmen. It was thought that by allowing the mourning dove as a game bird it might save the pheasant.

Calvin Burr, from Havre, is a proponent to this bill.

Larry Copenhavre, Montana, participated in research on the mourning dove at Western University. The mourning doves are a very viable game bird by virtue of its productive habits. They have three broods in Montana. In the southern states they are the first to hatch and the last to hatch at the end of the same summer. That the flocks are in danger is non existent. More hunters hunt the mourning dove than any other game bird. It is important to clarify that this should be a game animal as much for its own benefit as to the benefit of the people who enjoy hunting.

Chairman Smith asked for opponents.

Barbara Dahlgran, President, Federated Humane Societies of Montana, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 4.

Edward Sharp, Missoula, Montana, gave testimony in opposition to this bill. He presented copies of pictures of the mourning doves. A copy of his testimony and pictures are attached as Exhibit 5. In Mr. Sharp's testimony he made reference to Janet Jensen-Stevens, Representative Jensen's ex-wife. Ms. Stevens' submitted a letter in objection to some of Mr. Sharp's statements. A copy of her letter is attached as Exhibit 6.

Judy Fenton, representing the Lewis & Clark Humane Society, gave testimony opposed to this bill. A copy of her statement is attached as Exhibit 7.

Carroll Speck is opposed to this bill from the standpoint that it represents a danger to the people of this state. He has a small place outside of Whitehall, Montana and is constantly wondering if someone is going to shoot ducks or geese on his own place. This bill will create another reason for hunters to drive up and down the road looking for something to shoot. I am a hunter myself but I believe in driving where I am going to hunt and then getting out and walking. Modern day hunters believe in driving up and down the road which constitutes a danger to everyone. The more people that

are handling guns the more danger that someone will be accidentally killed. Accidents happen. There is a strong move in the United States to deny the use of guns to everyone and it is mostly because of accidents. Let us not give another reason for the accidental discharge of a gun. Certainly the money involved is not worth the life that might be lost from such a bill. He would urge a do not pass of such a bill.

Representative Jensen closed by stating he does not see any real problem with hunting doves in Montana. The mourning doves are hunted all over the United States and the rest of the world. The question is whether we should hunt or whether we should not. Whether in fact we should value animal life as opposed to eating it. Anyone that eats chicken, pork or beef has in fact made that determination. I have made that determination and I hope everyone else has. I have in fact hunted doves. I have hunted since I was a young man and am absolutely convinced that families that do participate in sporting activities together do have a much better family life. The question before you is whether we ought to hunt another game bird. The mourning dove is the most hunted game bird in the United States. There was an amendment put on the bill in the House which would restrict the open season on mourning doves to the open season on upland game birds.

Chairman Smith asked for questions from the committee.

Senator Lee asked Jim Flynn when the upland game season was opening this year.

Mr. Flynn said September 15th.

CONSIDERATION OF HOUSE BILL NO. 377:

AN ACT TO PROVIDE FUNDS FOR THE PRESERVATION AND MANAGEMENT
OF NONGAME WILDLIFE IN MONTANA

Representative Fabrega, District #44, presented this bill to the committee. He stated HB 377 does two things. On page 3, line 14, New Section 2 "Nongame wildlife account. (1) There is a nongame wildlife account in the earmarked revenue fund provided for in 17-2-102." That section is where all earmarked revenues go. The next change is Section 3 on page 4. It creates a voluntary checkoff for nongame wildlife management. Each individual tax payer who is required to fill out an income tax return may contribute to the management of nongame wildlife in Montana by marking the appropriate box on the state income tax return. Joint returns would allow two checkoffs. That is what the bill does. This is being funded from a portion of the sportsmen fees at this time and instead of using that source of funding this would allow several thousand Montanans that wish to contribute to tax themselves voluntarily rather than the Department taking it from the fees by sportsmen. This is a more legitimate way of funding the program instead of putting an extra burden on the licenses of those that pay hunting and fishing

fees. The bill addresses a different method of funding for a program that has been in place since 1973. Opposition to the bill are opposed to the 1973 law. If you think there is a way to repeal the 1973 law by not funding you would be mistaken because it is being funded now from an appropriate source. He furnished the committee with a packet of information (Exhibit 8), showing the procedure other states have used when they adopted this check-off system. He advised that the Department of Revenue will be submitting an amendment to cover the fee for administering the voluntary checkoff program. He feels when the program gets under way they will be able to handle this additional task without any extra moneys.

Senator Crippen, District #33, believes this is a good bill and thinks we will find the same to be true after hearing the proponents.

Jim Flynn, Department of Fish, Wildlife and Parks, gave testimony in support of this bill. A copy of his statement is attached as Exhibit 9.

Harriet Marble, President, Montana Audubon Council, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 10.

Janet Ellis, Montana Audubon Council, gave testimony in support of this bill. She furnished the committee with a copy of information relative to her testimony which is attached as Exhibit 11. She stated 49 states now have a nongame law with 20 states having the voluntary checkoff program. She reviewed the information passed out to the committee. This bill is not a protection bill, it is a funding bill. She stated there is no way an animal can appear on the nongame list unless legislative approval is obtained to protect these animals.

Arlo Skari gave testimony in support of this bill. He feels it is time the wildlife people and the agriculture people come up with a bill that is agreeable to everybody. With agriculture getting more intensive each year we must keep up with knowledge on wildlife to insure the control of unnecessary pests.

Ken Knutson, Montana Wildlife Federation, gave testimony in support of this bill. A copy of his statement is attached as Exhibit 12.

Byron Weber, 5-Valley's Audubon, Missoula, said if we had had accurate information on the snail darter, construction would not have had to have been stopped on that dam. We need accurate information from state research and development. With that information we could clear some of the species off the protection list. We need to have some kind of inventory of the animals in the state. Other states are looking at the possibility of this.

Betsy Spettique, Bozeman, Montana, gave testimony in support of this bill. A copy of her statement is attached as Exhibit 13.

Robert Ballon, wildlife biologist from Billings, gave testimony in support of this bill. The nongame funding program has not been adequately funded so far. With this additional funding we will learn a lot more about the nongame species.

Chairman Smith asked for opponents.

Will Brook, representing Montana Woolgrowers, Montana Stockgrowers and Montana Association of State Grazing Districts, gave testimony in opposition to this bill. The Montana Woolgrowers Association includes 2500 members, the Montana Stockgrowers 3200 members, and the Montana Association of State Grazing Districts 1400 members. That is over 7000 ranch families that want to protect the way of life they love. On their land they protect the habitat for deer, elk, antelope, pheasants, ducks, mountain goats, and many others. This idea has been well discussed by our members at our annual convention. We are opposed to HB 377. There is a problem of trust. Many of our people would support HB 377 if we could be sure that the protection of nongame would not interfere with the day to day farming and ranching operations. The Friends of Animals ran an add in Time Magazine accusing sheep ranchers of poisoning over 200,000 wild animals. How can grazing districts trust the nongame program when they worked for over a year on a prairie dog control program, only to find the Defenders of Wildlife sued on a technicality. They desperately needed the prairie dog program. We can cite many other examples where we have been violated time and time again. He submitted to the committee a pamphlet put out by the federal government entitled "State Director Guidance for Resource Management planning in Montana and the Dakotas" and referred to pages D-1 through E-3. He stated we are already concerned with the direction of the nongame program in Montana and furnished information which listed game as well as nongame animals as being of special concern. The list includes prairie dogs and the wolf. The Department will over see the nongame list and will have to improve those lists. We would have no problem if Jim Flynn remained the Director of the Fish, Wildlife and Parks Department or Senator Ed Smith always chaired the Fish and Game Committee. This will not always be so. Twenty other states have adopted this check-off program. Montana does not have a sales tax, Montana does not have many things that other states have. The information furnished by Mr. Brook is attached as Exhibit 14.

Don Allen, Executive Director, Montana Petroleum Association, appeared in opposition to HB 377. Problems that we see today with this bill is the fact that funds will be used for a potential blocking off of oil and gas exploration. With the blocking off of wells there is a potential of loss of revenue to the state and this needs to be considered down the road. This could create a whole new protection of nongame species without proper consideration of other resources. Landowners are aware of the many issues involved. This might lead

to a single use of state land versus a multiple use. There is no law that says people can't voluntarily give to this program as opposed to a checkoff system. He gave examples of the loss of revenue that could result. He does not feel it is fair to compare the state of Montana to other states. Justification for this program should be determined on whether it is good for Montana.

Esther Ruud, representing the Montana Cattleman's Association, gave testimony opposing HB 377. A copy of her statement is attached as Exhibit 15.

Jo Brunner, representing the Women Involved in Farm Economics, gave testimony in opposition to this bill. A copy of her statement is attached as Exhibit 16.

Ken Morrison, Department of Revenue, presented the committee with a copy of amendments which would give the Department the authority to fund this program out of the collections received. Copy is attached as Exhibit 17.

Chairman Smith asked the people that were present that intended to give testimony but did not have time, to please stand, give their name and state whether they were in support or opposed to this bill.

Louis Vero furnished the committee with a letter from the Montana Rodent Damage Control Council and advised their position was neutral. A copy of the letter is attached as Exhibit 18.

John Conter, Executive Vice President, Montana Cattle Feeders Association, said they are definitely opposed to this bill. A copy of his testimony is attached as Exhibit 19.

Randy Hohf, speaking on behalf of the University of Montana Student Chapter of the Wildlife Society, supports this bill. A copy of his testimony is attached as Exhibit 20.

Bebe FitzGerald, Billings, supports this bill. A copy of her statement is attached as Exhibit 21.

Luci Brieger, representing the Montana Environmental Information Center and Montana Conservation Congress, supports this bill. A copy of her testimony is attached as Exhibit 22.

Gordon G. Weber, Billings, Montana, supports this bill. A copy of his testimony is attached as Exhibit 23.

Dwight Bergeron, representing the Montana Chapter of the Wildlife Society, supports this bill. A copy of his testimony is attached as Exhibit 24.

Mary Wunderlich, Bozeman, support; Larry Copenhaver, Upper Missouri breaks, Audubon Society, support; Ed Wenzel, Butte, support; Rita Cetrone, Billings, support; Georgia Frazier, Billings, support; Bruce Van Alten, Upper Missouri Group, the Sierra Club, support; Joe Murphy, Missouri River Unlimited, support; Margaret Adams, Great Falls, support; and E. Carroll Speck, support.

The following furnished testimony and their testimony is attached as the exhibit indicated: Pete Carroll, Missoula, Exhibit 25; Christine Deveny, Helena, Exhibit 26; Margaret E. Adams, Great Falls, Exhibit 27; Art Held, Exhibit 28; Cecilia Gallagher, Bozeman, Exhibit 29; Christopher Clancy, Exhibit 30; Netzy and Jim Durfey, Livingston, Exhibit 31; Jon Swenson, Livingston, Exhibit 32; Tom Shands, Livingston, Exhibit 33; Tara Gallagher, Livingston; Exhibit 34; and Alan R. Harmata, Bozeman, Exhibit 35.

Representative Fabrega closed by stating some of the testimony shows concern of the amount of money that will generate as replacement. He referred the committee to the amendment at the bottom of page 3, line 25 "except that no money collected under [this act] may be used for the purchase of any real property. Money derived from tax checkoff contributions to the account will replace license fee funding for nongame wildlife management after June 30, 1985." Our system is not set up now to accept contributions from a person who sends in \$5.00 or \$10.00 for this fund. This is a way to allow an individual to make a small contribution.

Chairman Smith asked for questions from the committee.

Senator Smith said to Arlo Skari you stated wildlife belongs to everybody. There are good species and bad species but that affects everybody. On my farm we have had some bad experiences with some species.

Mr. Skari said in the case of some species which are causing farmers and ranchers difficulties all these are taken care of in this bill. He asked what species of animals are causing him problems on his ranch.

Senator Smith said his concern is if you kill a flicker tail gopher, how are you going to poison that animal without killing a nontarget species. In Colorado they have 3,000 species on their nongame list. How are you going to poison a problem species without killing some nontarget animal.

Mr. Skari said this is a funding bill to look into your problems. It calls for research into finding out information on these animals. If they are causing problems they can research the problem to prevent it.

Senator Mohar asked any representative of the agricultural groups, what specifically, in land loss, has adversely affected agriculture

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over the last 10 years.

Mr. Brook said the money hasn't been available to implement any programs to have tests done and species inventoried. We do not have a problem now with the Department but what happens down the road after the funds are increased.

ADJOURNMENT: The meeting adjourned at 3:00 P.M.

Ed B. Smith

ED B. SMITH, Chairman

ROLL CALL

FISH & GAME

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3-19-83

[illegible]

DATE

March 19, 1983

COMMITTEE ON

FISH AND GAME

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Ken Knudson	MT Wildlife Fed	HB 377	✓	
Dwight Bergeron	MT. chapter. The Wildlife Soc.	HB 377	✓	
RANDY MOFF	U M CHAPTER OF THE WILDLIFE SOC	HB 377	✓	
Christine Devery	Self	HB 377	✓	
Martin Schultz	self	HB 377	✓	
Pete Carroll	Self.	HB 377		
John R. Carter	Self	HB 377	✓	
Joe Brunner	W. I. F. Farm Bureau - Fair Thomas - Ashers groups MABA	HB 377		✓
Margaret Adams	Self	HB 377	✓	
BETSY SPETTIGUE	Self	HB 377	✓	
Mary Wunderlich	Self	HB 377	✓	
E. Carroll Speck	II	HB 377	✓	
Edward Mary	Self	HB 836		✓
Gene S. Schubert	Self	HB 836		✓
Pita L. Cetrone	Self	HB 377	✓	
Georgia J. Francis	Self	HB 377	✓	
Walter D. Weber	Self	HB 377	✓	
Harriet Marble	Mont. Audubon Council	HB 377	✓	
Robert McCallum	Self	HB 377	✓	
Polo Shaei	Self	HB 377	✓	
Bruce von Alten	Upper Missouri Group Sierra Club	HB 777	✓	
FLYNN	DEPT FWP	HB 777 HB 836	✓	
Beke Filly Turner	Self	HB 377	✓	
Tara Gallagher	Self	HB 377	✓	
CHRIS CLARKE	Self	HB 377	✓	
Dracia Hilde	Self	HB 377	✓	

(Please leave prepared statement with Secretary)

DATE

March 19, 1983

COMMITTEE ON

FISH AND GAME

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Edward O. Wenzel	self	HB 377	✓	
Debra Olson	self	HB 377	X	
Larry Copenhagen	Upper Mo. Breaks Audubon Society	HB 377	X	
Judith Fenton	Lewis & Clark Humane Soc.	HB 377	✓	
Judith Fenton	Lewis & Clark Humane Soc.	HB 836		✓
Glenda Bradshaw	self	HB 377	✓	
Sandra Hillgren	Fed. Humane Soc of MT	HB 836		✓
June Campbell	Self -	HB 377	✓	
Barbara Rued	Montana Cattleman's Assn	HB 377		✓
Byron Weber	5-Valleys Audubon ^{MT-Soc}	HB 377	✓	
Hail Miller	Self - Missoula	HB 377	✓	
Janet Ellis	MT Audubon Council	HB 377	✓	
Louise Bruce	self	HB 377	✓	
Luci Brieger	MEIC + MT Conservation Org.	"	✓	
Beulah Gallagher	self	HB 377	✓	
Right A. Held	Self	HB 377	✓	
John Conrath	MT Cattlemen's Assn	HB 377		✓
Ken Mann	DOR	377		
Donald Marble	self	377	✓	
Mons Teigen	MT Stockgrowers + Cattlemen	377		X
Cary B. Lunc	self	377	✓	
Patricia M. Dolan	self	377	✓	
Will Brooke	MT Stockgrowers/MT Assoc of State Grazing Distr./MT	377		X
Don Allen	Stockgrowers MT. Rangeland Assoc	377		✓

DATE _____

COMMITTEE ON FISH AND GAME

BILL NO. 836

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
DONALD FENTON	LEWIS & CLARK HUMANE SOCIETY		✓
Dale Dahlgren	Missoula Co. Humane Society		✓
Hail Miller	Self - Missoula		
Gene Campbell	Self		
Harold Anderson	Self	✓	
Tommy Walker	SELF	✓	
Walvin D. Berry	Self	✓	
Mary Fagan	Missoula Humane Soc.		
Will			
Larry Copenhagen	Self	✓	

(Please leave prepared statement with Secretary)

(This sheet be used by those testifying on a bill.)

NAME: JOHN COUTA DATE: 3/17/83

ADDRESS: 8576 APPELGATE DR.

PHONE: 458-5060

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: HB 897 (DOPE)

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENT: A BILL IN SUPPORT of DOPE HUNTING IS

NEED By MANY SPORTSMAN

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet : be used by those testi : , on a bill.)

NAME:

Barbara Hilgert

DATE:

3-19-83

ADDRESS:

834 Marshall St. Munster, IN

PHONE:

54 9 7473

59801

REPRESENTING WHOM?

Federated Humane Soc. of Mont.

APPEARING ON WHICH PROPOSAL:

836

DO YOU:

SUPPORT?

NO

AMEND?

OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet is to be used by those testifying on a bill.)

NAME: Judith Fenton DATE: 3/19/83

ADDRESS: Blue Sky Heights #26, Clancy, MT 59634

PHONE: 933-5922

REPRESENTING WHOM? Lewis & Clark Humane Society

APPEARING ON WHICH PROPOSAL: H/B 836

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENT: See attached testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet be used by those testify g on a bill.)

NAME: Edward SHARP DATE: 3/19/83

ADDRESS: 405 Wilma Bldg

PHONE: H 5472078 office 543-4166

REPRESENTING WHOM? Sec 4 ~~and~~ Koro HSTO

APPEARING ON WHICH PROPOSAL: 836

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet be used by those testify g on a bill.)

NAME: Bruce A. Hurlbert DATE: 3/19/83

ADDRESS: 131 S. Higgins Ave #104 Missoula, Mont. 59802

PHONE: 406-543-4166

REPRESENTING WHOM? Dave's, & self of Koro Hatto

APPEARING ON WHICH PROPOSAL: HB-836

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENT: It is a known fact that the only part of morning
Does you may eat is the food breast and the rest
unwanted. There are to be a better way to spend
time than for the purpose of killing.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet is to be used by those testifying on a bill.)

NAME: Edward O. Wenzel (Ted) DATE: 3/19/83

ADDRESS: 420 Roosevelt Dr. BBI Butte MT. 59701

PHONE: 494-8166 494-5059 work

REPRESENTING WHOM? self - Wildlife Biologist by profession

APPEARING ON WHICH PROPOSAL: HB 377

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT:

1. State has a legal mandate to manage all wildlife including nongame species
 2. This bill is a viable means of obtaining funding for mgmt. of nongame wildlife
 3. Intent of bill is not to list species as threatened / endangered - ~~not~~
 4. Intent of bill is not to disrupt industry / agriculture but only to manage nongame - a funding source
 5. As a federal biologist (BLM) I work with agriculture / oil + gas interests, etc. every day. I have yet to see where a nongame species caused cessation of an industrial program. Nongame has less legal power. Thank either
- PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

game sp. or T/E species. ~~As~~ Biologists (as professionals) have the responsibility + goal of protecting the wildlife resource. Our recommendations may interfere with oil + gas, etc. but we ^{they} do not stop the activity - nor do we want to. We only want true multiple use.

(This sheet (be used by those testifying on a bill.)

NAME: Mary Wunderlich DATE: 3/19/83

ADDRESS: 1003 So. Church, Bozeman, MT 59715

PHONE: 586 7364

REPRESENTING WHOM? Self.

APPEARING ON WHICH PROPOSAL: Non-game funding HB#377

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: As a Montana citizen, from Bozeman, Mt., I support
bill HB#377. I would like to voluntarily contribute money
in support of nongame wildlife management, research, and
education. Nongame animals have not had been as important
in research+management funding as game animals in the past,
~~and~~ hence gaps of information exists in managers
management of any aspect of Montana's ecosystems.

As a graduate student in Fish+Wildlife Management at
Montana State University and President of the MSU
Fish and Wildlife Forum, I speak on behalf of a
majority of fellow students ^(membership FWForum: 50) who share my support of
HB 377.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Larry Copenhagen DATE: 3/19/83

ADDRESS: ~~3424~~ 3424 - 1st Ave So Great Falls

PHONE: 452 - 7279

REPRESENTING WHOM? Upper Missouri Breaks Audubon Society & self

APPEARING ON WHICH PROPOSAL: HB377

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: Need to allow voluntary support of an
already functioning Act of the legislature. Burden
should be removed from hunting & fishing community.
Other states have successfully used this method.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet be used by those testifying on a bill.)

NAME: Lita L. Celione DATE: 3-19-83

ADDRESS: 2550 Clark-Billings, Mt. 59102

PHONE: 656-1433

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HB 377

DO YOU: SUPPORT? yes AMEND? _____ OPPOSE? _____

COMMENT: Montana's 1973 Non-game Act needs additional funding. A check off system follows in the tradition of other special fundings as in sportsman's fees. Funding is needed to further the study of, as we call them, the "Watchable Wildlife", to have more thorough surveys on these animals. By doing so we will gain knowledge to successfully keep them off the endangered species list. Being on that list would certainly be more costly.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet : be used by those testify g on a bill.)

NAME: Georgia Tragner DATE: March 19

ADDRESS: 2005 Northridge Circle, Billings, Mt.

PHONE: 656-4705

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: HB 377

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENT: Providing an effective nongame program
is necessary to prevent decline of some species, to get
information and provide assistance to private
landowners and land management agencies
who are interested in wildlife preservation.

A checkoff for this government program on
the income tax form will provide a convenient
and voluntary method for interested people to
contribute.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet is to be used by those testifying on a bill.)

NAME: ARLO SKARI DATE: 3/19/83

ADDRESS: Box 296, Chester, N.H.
406

PHONE: 292-3602

REPRESENTING WHOM? Self Former- Rancher

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? ☒ AMEND? _____ OPPOSE? _____

COMMENT: It's time the wildlife people and the Agriculture
community come up with a bill that is agreeable
to everybody and is founded by those interested in
it. With Agriculture getting more intensive each year
we must keep up with knowledge on wildlife to insure
the continuation of most species and the control of
unnecessary pests.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

Name Cecilia Gallagher Date Mar 20, '83
Address 101 Grant-Chamb. #1-H, Boyman Support ? ☒
Representing self Oppose ? ☐
Which Bill ? HB 377 Amend ? ☐

Comments:

letter submitted to committee

OK

Please leave prepared statement with the committee secretary.

(This sheet to be used by those testify on a bill.)

NAME: Robert M. Ballou DATE: 3/19/85

ADDRESS: 3005 Placer Drive

PHONE: 248-8895

REPRESENTING WHOM? Myself, Nat'l Wildlife Refuge Assoc.

APPEARING ON WHICH PROPOSAL: HB377- Non-game Funding

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT: As a wildlife biologist, ^{now retired,} with over 30
years' experience in wildlife research,
management, and administration, I know
what funding can do to benefit game
species. The great success with Canada
geese is a good example.

Funding is now needed for non-game
so that knowledge needed to benefit this
group of wildlife can be collected and
used. The Non-Game Funding Bill should
be passed.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet is to be used by those testifying on a bill.)

NAME: BILL ASHER DATE: 3-19-83

ADDRESS: P.O. BOX 3285 BOZEMAN

PHONE: 995-4402 (442-1019 HELENA)

REPRESENTING WHOM? AGRICULTURAL PRESERVATION ASSN.
PARK COUNTY LEGISLATIVE ASSN.
SWEETGRASS COUNTY PRESERVATION ASSN.

APPEARING ON WHICH PROPOSAL: HB 377

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENT: WE ARE OPPOSED TO THIS BILL AND THE
NON-GAME MANAGEMENT CONCEPT IN GENERAL.

IT IS OUR CONTENTION THAT THE LONG-RANGE
RAMIFICATIONS OF FUNDING NON-GAME MANAGEMENT
WILL ONLY LEAD TO ~~A~~ FURTHER DETERIORATION OF
RELATIONS BETWEEN LAND-OWNERS AND RECREATIONALISTS.

THIS ISSUE IS STRAINED ENOUGH AS IT IS, AND HB377
WILL ONLY ADD FUEL TO THE FIRE.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Martin Schultz DATE: March 19, '83

ADDRESS: 281 Duniway Missoula MT 59801

PHONE: 243-4716

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HB 377

DO YOU: SUPPORT? V AMEND? OPPOSE?

COMMENT: Ranchers attempting to control
nongame pest species can benefit from
the bill. The reason that I say this is that
the Dept of F+G. would be ~~allowed~~ able to
carry out research on nongame pest species and
their relationship to the livestock + Agricultural
industries.

My second point is that Pittman-Robertson
dollars now support nongame management. According
to Thomas More (1979) nongame enthusiasts are willing
to support nongame management, they do this already by
supporting special interest groups. Why not provide
them with an opportunity to contribute to a
state agency.

THANK YOU.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

More, T.A., 1979. The demand for nonconsumptive
wildlife uses. USDA Forest Service Gen.
Tech. Rept. NE-52 pp 16.

(This sheet be used by those testifying on a bill.)

NAME: Bruce von Alten DATE: 3-19-83

ADDRESS: P.O. Box 1201 Helena, MT. 59624

PHONE: 475-3162

REPRESENTING WHOM? Upper Missouri Group
The Sierra Club

APPEARING ON WHICH PROPOSAL: House Bill 377

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENT: The Upper Missouri Group of the
Sierra Club has 500 members living
in central Montana. The Group
supports H.B. 377

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Margaret E Adams DATE: _____

ADDRESS: 14 - 19th street North - Great Falls

PHONE: 761-8329

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: H.B 377 - Non Game Funding

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: This measure represents a method
for funding research and management of
non-game species without drain on the
general fund nor on the funds of
Fish, Games, Parks Department. The income tax
check-off has proved successful in other
states with similar problems; Colorado for
instance. If we recognize the uniqueness
of the wildlife resources we have in our
state, we can help to support a viable
industry, tourism, without any adverse
effect upon other industry, or our
Montana life style -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet . be used by those testi ; on a bill.)

NAME: Dwight Bergeron DATE: March 19, 1983

ADDRESS: 800 Glendale, Helena, MT.

PHONE: 443-4333

REPRESENTING WHOM? Montana chapter of the Wildlife Society

APPEARING ON WHICH PROPOSAL: H.B. 377 - Non-game funding bill.

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT: see attached ~~2~~ sheets (2)

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet (be used by those testify g on a bill.)

NAME: Al Haumata DATE: 3-19-83

ADDRESS: 4756 Itana Circle, Bozeman, MT 59715

PHONE: 406-586-3747

REPRESENTING WHOM? SEEF MT CITIZEN

APPEARING ON WHICH PROPOSAL: AB#377

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT: See attachment

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

McEWAN & WEAVER

ATTORNEYS AND COUNSELORS AT LAW
512 FIRST AVENUE WEST
COLUMBIA FALLS, MONTANA 59912

Exhibit 1
March 19, 1983

**CHRIS G. McEWAN
JAMES R. WEAVER**

**P.O. BOX 329
892-4355
892-4356**

March 17, 1983

Senator Roger Elliott
State Senator
State Capitol Building
Helena, MT 59620

Re: House Bill 836, hunting
mourning doves

Dear Roger,

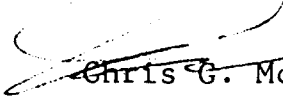
I just had to write you again as I have just seen the picture and advertisement in the Missoulian wherein it was stated that thousands of doves were to be murdered and slaughtered. I guess what really irks me and what I would like someone to tell the committee is that this man does not know the difference between a pigeon that roosts on the top of buildings and that kids feed in large city parks from the very small mourning dove which is hunted all over the United States.

Just for the heck of it, I did some research into the mourning dove and found that the natural mortality rate of a mourning dove is between 50% and 70% regardless of hunting and that despite this mortality rate, the numbers of doves remained fairly constant. They fly at the speed of 60 miles an hour and are very, very wary after they have been hunted. I most definitely believe that it would be a welcome addition to the game bird status in Montana and those people who have never hunted doves would be in for a very pleasant surprise.

If you want to make a copy of this letter and give it to the chairman of the committee, it would be appreciated as I understand that there is a senate hearing on this matter set for 1:00 o'clock p.m. on March 19th.

Very truly yours,

McEWAN & WEAVER


Chris G. McEwan

CGMc/ssm

Weights: About 40 gr. (MacMillen and Trost, 1966), or about 1¼ oz.

Range: Resident in s. Ariz., N.M., s. Tex., south through coastal lowlands on both coasts of Mexico, south to nw. Costa Rica and Nicaragua; extending range northward in sw. U.S.; Cunningham (1966) reported that the Inca dove is known to have bred at Key West, Fla.

Dove, lace-necked. See Dove, spotted.

Dove, little. See Dove, ground.

Dove, moaning. See Dove, mourning, and Dove, ground.

Dove, mourning, *Zenaida macroura* (zen-AY-ih-dah mah-CROO-rah); genus name: applied by Charles Lucien Bonaparte, French zoologist, in 1838, in honor of his wife, Princess Zénaïde Charlotte Julie Bonaparte, to a genus of doves that includes the *Zenaida* dove, white-winged dove, and, more recently, the mourning dove (see American Ornithologists' Union, 1973); species name: from Gr. *makros*, long, and *oura*, tail; *mourning*, from inferred sadness of the bird's call. (Color ill., page 710.) Has been classified as a game bird by federal government and 31 states; protected from hunting in 17 states (see list by Ruos, 1974); has widest distribution of any N. American game bird; only one to nest in all 48 conterminous states of U.S.; may be seen in summer from Alaska south into Mexico; 11-13 in. long; wingspread 17-19 in.; the long, narrow, pointed tail, bordered with large white spots, is 5½-7 in. long; female smaller than male and colors duller; a gray-brown dove with small head, bill small, slender and black; has long, rather pointed wings (its long, pointed tail gives it a streamlined shape distinctive at long distance); at close range shows small black spot on each side of face that distinguished it from the similar larger but now extinct passenger pigeon; also has a few black spots on scapulars and wing coverts; at all seasons the commonest native dove about suburbs and in farm country; flies swiftly and strongly like small hawk but with musical whistling of wings; highly adaptive, lives from farm fields, hedges, and open woods to windbreaks of Great Plains and arid semi-desert mesquite of West and in mountains of Southwest up to 13,000 ft. (Ligon, 1961), but prefers farms or other open lands with scattered trees, shrubs, and open fields; usually seen in pairs in summer; some winter in n. U.S. but most south of line from s. Calif. east to Neb., N.J.; arrive, some already paired, in n. U.S. and s. Canada in Mar.-Apr.; start southward in fall, generally in mid-Sept., in small groups of a few to 20; mostly migrate by day and migration usually completed by early Dec.; in spring, male selects nesting territory and defends it by flying at and pecking other males; also by territorial cooing (songs) uttered from dawn to dusk early in spring, delivered from prominent perches in his territory on poles, wires, dead tree limbs, TV aerials, house ridges—a mournful, low-pitched, soft oo-ah! cooo-cooo-coo, the first phrase slurred upward, then the three coos that follow usually all at same

pitch as first oo; female sometimes answers weakly, almost inaudibly; Brackbill (1970a), after eight years of studies of banded mourning doves, concluded that they mate for life; total population in U.S. and Canada, fall of 1974, estimated by U.S. Fish and Wildlife Service at about 400 million (Banks, 1974); Crissey (1958) estimated annual kill by hunters at about 30 million (see also Peters, 1961).

Feeding Habits: During winter lives in small to large flocks where food plentiful and good roosting and protective cover in trees nearby; sometimes roosts on ground at night in winter (see Toughness of a Bird's Feet under Feet and Legs; also Cold and Birds); feeds mostly on ground in harvested crop fields, along railroad rights-of-way, roadsides; is almost wholly a seed-eater (about 98% of diet); eats enormous numbers of weed seeds in fields and waste places at all seasons; a stomach of one held 7,500 seeds of yellow wood sorrel (*Oxalis*); another, 6,400 seeds of foxtail grasses (*Setaria*); besides seeds of grasses eats waste grain—wheat, corn, rye, oats, barley, buckwheat, millet—peanuts, cowpeas, lespedezas, and seeds of pines, doveweed (*Croton*), and pokeberry; also some insects, snails (Tyler, 1932; Edminster, 1954), and picks up grit from gravel roads or sea beaches to help grind seeds in diet (see Gizzard); may fly long distances daily, especially in arid parts of West, for water.

Nest: Male brings twigs to female at nest site, mostly in crotch, or on-branch, of tree, usually 5-25 ft. up and even to 80 ft. above ground; female arranges sticks in loose platform, also low in vines, tops of rock or rail fences, on stumps, and often, where trees are scarce, on ground; on roof gutters of houses, in chimney corners, on top of arbors in gardens, on top of nests of cardinals, American robins, blue jays, brown thrashers, mockingbirds, grackles, house sparrows, and occasionally in parts of stick nests of herons; in especially favored trees such as pines, Norway spruces, osage orange, may nest in colonies with ten or more nests in one tree (see details in Tyler, 1932; Edminster, 1954).

Eggs: N. U.S., Apr.-Aug.; Tex., Feb.-Sept.; Calif., Jan.-Dec.; 1-4, usually 2, pure white.

Incubation: By both sexes; male by day; female by night; 14-15 days; young brooded and fed by both adults; young fly directly from nest, usually about 14-15 days after hatching (see also Ludden, 1979); may return to it for roosting for first two or three nights; within a week after leaving nest, are on their own (Edminster, 1954); a pair may raise 2-5 broods in a nesting season; usually more broods raised each year in South because of climate that provides longer nesting season; may nest there in every month of the year.

Other Names: Carolina dove; moaning dove; turtle dove (not for turtles of U.S. but from Lat. *turtur*, species name of turtle dove of Europe—McAtee, 1951-55); wild dove; wood dove.

Accidents: In Fla., Stoddard and Norris (1967) reported 69 mourning doves killed striking TV tower during 1-year period; many also killed by striking utility wires.

Age: During their first year, large losses of young mourning doves from shooting and

other causes (about 70% of juveniles die in first year, and annual adult mortality is about 55%—Kiel, 1959); however, some live to 2 and 5 years in wild; one, banded in Ohio, shot in Mexico when 7 years old; one, banded Cape Cod, Mass., lived to 10 years in wild; in captivity still alive and healthy at 17 yr old (Weber, 1972); another, a female raised from fledgling at Visalia, Calif., still alive at 17 years old; a male companion lived to 10 years.

Albinism: One almost all-white, mated to a normally colored one in Ont., Canada (A. strong and Noakes, 1977).

Flight Speed: Timed in Calif., 30-36 m.p.h. (Tyler, 1933) and 40-41 m.p.h. (Cooke, 1951). Ont., one timed June 1951 at 55 m.p.h. (Parker, 1952).

Host to Cowbirds: Very uncommon. Several records of host to brown-headed cowbird, of three doubtful (Friedmann, 1963); three records of host to bronzed cowbird near Co. Christi, Tex. (Friedmann, 1971).

Weights: Males (164) averaged 4.6 oz.; maximum, in an especially large male in 1947 of 6 oz.; females (80) averaged 4.4 oz.; a female in Ohio weighed 5.5 oz. (Martin and son, 1952).

Range: Nests from se. Alaska, s. B.C., A. Sask., Man., to s. Ont., s. Que., Me., and s. south to s. Baja Calif., through Mexico; Panama, Greater Antilles, Bahamas; also from s. Canada and northern border into U.S. but mainly from n. Calif., s. Nev., Colo., Neb., and Iowa, Ill., Ind., s. Mich., and N.J. south into Mexico, w. Panama.

Dove, prairie. See Gull, Franklin's, Family.

Dove, rain. Another name for the black and yellow-billed cuckoos in Cuckoo Family.

Dove, ring. See Dove, ringed turtle.

Dove, ringed turtle, *Streptopelia* (strep-toe-PEEL-ih-ah rye-SORE-ih-ah; name: Lat., from Gr. *streptos*, twisted, and *peleia*, a dove (Jaeger, 1955); according Gruson (1972), allusion may be to a pair of colored patches on sides of neck of some species in this genus; species name: from *risor*, a laughter, one who mocks; Gruson suggests this may be an allusion to this dove's *ringed* refers to thin black band around sides of neck. (Color ill., page 71) domesticated dove throughout almost world; native origin unknown; introduced established around Los Angeles, Calif. reported in Fla.; 12-14 in. long; averages larger than the mourning dove and much distinguished by its sandy plumage and a black ring on hind neck; slimmer than dove, or common pigeon, and lacks that white rump; also has moderately rounded tail with white in corners; calling hoo-hrrooo (Robbins et al., 1965); cage bird, an established resident population.

*See, however, Parkes (1975).

HB836

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

March 19, 1983

I appear here today in support of HB836.

Classifying the mourning dove as a "migratory game bird" would allow for the management of the species and the establishment of a hunting season in Montana.

Providing the sportsman with the hunting opportunity for mourning doves is not new. The mourning dove is currently hunted as a migratory game bird in 33 of the lower 48 states. In fact, it is the No. 1 game bird in the United States with an annual harvest of 49 million nationwide.

Montana is currently the only state west of Minnesota not hunting mourning doves. Dove hunting is not only challenging to the sportsman but also is a prized table delicacy.

The estimated fall population of mourning doves in the United States has ranged from 350 to 600 million annually according to the U. S. Fish & Wildlife Service estimates. Of these, approximately one-half would die annually from natural mortality. The option of hunting would provide an alternative to this mortality here in Montana.

Recent banding studies in Montana indicate the majority of doves raised in Montana are harvested by hunters in Mexico. As a result, Montana hunters are foregoing their hunting opportunity for the benefit of other states and Mexico.

Montanans are currently not only foregoing an opportunity to hunt a game bird species but we also lose the benefits to both the local and state economy. Dove hunters just like other hunters purchase shotguns, ammunition, motel rooms, and food necessary to participate in their sport.

I would point out that under current law, the Montana upland bird license would be the only license required to hunt doves in Montana.

We urge your support of HB836.



Exhibit 4
March 19, 1983



TELEPHONE 549-3934

• 1105 CLARK FORK DR. •

MISSOULA, MONTANA 59802

March ,13,1983

Senate members Fish and Game committee
1983 Legislature
Capital Building
Helena, Montana 59620

Re H.B.#836,Mourning doves

Ladies & Gentelmen:

I read with dismay H B # 836 introduced by representative James Jensen proposing open season on mourning doves.

I fail to understand the reason for this bill,could it be that,Montana is over populated with these birds?are they devouring the flathead cherry crop, or destroying the crops of Montana ranchers,or are they a menace to other birds, animals or plant life?.

The truth is these ~~quiet~~ gentle birds lay but two eggs at a time,and do no harm.

My information is that there is very little edible meat on a dove,it is dark in color,and not tender to eat.

My experience with dove hunting was in 1978,while picking fruit in an orchard on the banks of the Columbia river near Brewster,Washington.While we were picking we heard shots being fired down along the river,I was told that the shots came primarily from persons who had driven from Seattle nearly 500 miles awayto hunt doves.The hunters wait til the doves come to drink from the river,then they blast them out of the way. As we picked on down a row of fruit trees we came to refuse pile,there to hold the prunings of the fruit trees,on the pile were more than a hundred dead and wounded doves,that had been discarded there,because those responsible for killing and crippling them did not want them.

I am unable to understand the rationale and the joy of killing a creature as harmless as a mourning dove,other than the fact that the person doing the killing feels compelled to do so,just for the sake of killing.

Will it be robins and bluebirds next?

I would hope that your sense of judgment will dictate that you defeat HB 836. We need more birds to destroy insects and not fewer of them.

Sincerely,

Barbara Dahlgren, Pres. Federated Humane Societies of Montana

Barbara Dahlgren
834 Marshall Street
Missoula, Montana 59801 Home phone 54 9 7473

3/19/83

Exhibit 5

Mr. Smith, Chairman and Members of The Fish and Game Committee
State Capitol, Room 321.

H.B. 836 as proposed by Representative James Jensen with open season on the shooting of mourning doves in the State of Montana, I am strongly opposed to for the following reasons:

First, The Mourning Dove does no harm or present any nuisance value as to health, noxious odors, or gives or creates a noise problem essentially interfering with the comfortable enjoyment of property owners in this State. The shell shooting and noise for hunting purposes is a waste of money that could be used for more humane purposes instead of killing doves as they fly quickly (some 60 miles an hour) over this state in their migratory anxiety to reach a warmer climate where they can find some security for protection from cold weather. There is no reason to declare war on mourning doves. Senator Pat Regan has stated to me that this same bill comes up in every session of the legislature and she is not in favor of it.

Secondly, By approving H.B. 836 you legislate to encourage shooting pigeons and other birds classified as wild birds who do have protection under the environmental codes of The Fish and Game Department and do not deserve to be killed because there is nothing else to shoot at when people like Mr. Jensen are amusing themselves to kill something as a family sport.

I discussed this after my article to the Daily Missoulian was published labled "Kill Bill, Not Birds" Friday, March 11th with Janet Jensen Stevens, the former wife of Mr. Jensen, who is now one of our prominent law enforcement officers in Missoula County and I must say, a popular, fair minded lady doing a splendid job. She replied, "Mr. Jensen was born in Wyoming and has always hated mourning doves and for some reason, liked to kill them." Since Montana and Kansas have laws to protect them, it is ironic that Jensen has introduced H.B. 836 to kill them now that he is a representative to the legislature from Billings representing wild Life's Best Interests. I asked Mrs. Janet Jensen Stevens to write this Committee opposing H.B. 836 and she consented to do so.

Thirdly, I am a lover of all birds, especially the pigeon which I have fed and helped in the Missoula area and created THE CHAPEL OF THE DOVE in The Historical Wilma Building in their honor with dedication to my favorite pigeon Koro Hatto a constant companion of 15 years. In the Bible all doves or pigeons are representatives of peace. Today the dove is regarded as the emblem of peace throughtout the world. The dove is recognized as a symbol of tenderness, kindness and beauty. Must we destroy the emblem of our flag and country when a bird is mounted above the American Flag that we stand for peace and love--not destruction.

Lastly, The Fish and Game Department has enough laws of enforcement for protection of animals and birds in The State of Montana without adding legislative laws to permit killing of doves. I strongly urge the members of this committee here today to present

to the members of the Senate a "DO NOT PASS" and request that my statement be made a matter of record on House Bill 136.

Edward Sharp
EDWARD SHARP

Opinion

Editorial Board: • Tom Brown, Publisher •
Missoulian, Friday, March 11, 1983

14—Missoulian, Thursday, February 24, 1983

Outdoor briefs

Mourning dove season permitted by bill

HELENA (AP) — The Montana House Tuesday declared open season on mourning doves.

With several members cooing mournfully as a backdrop, the House voted 52-38 to allow the Fish and Game Commission to establish a hunting season for mourning doves in Montana, reportedly one of two states which had barred dove hunting. (Kansas was said to be the other.)

The bill defines the mourning dove as a migratory game bird. And Rep. James Jensen, D-Billings, the chief sponsor, said that definition would place dove hunting under federal regulations for birds in the flyway, which covers Montana.

The bill was amended at the request of landowner interests in the House to ensure that dove seasons do not extend beyond seasons for upland game birds.

Rep. Gerry Devlin, R-Terry, said the patience of farmers and ranchers is already pressed to its limits during long periods of bird and big game hunting.

But skeptics said restricting dove hunting until as late as mid-September might mean there would be no doves to hunt, because doves head south at the first sign of frost.

Jensen, a longtime dove hunter, said that even if Montana-based doves take off before the season opens, doves from points north would still be crossing the state during likely hunting periods.

Jensen said his bill would promote family unity because hunting is a wholesome family sport. He said parents who hunt "with" their kids won't have to hunt "for" their kids. And he said doves are the No. 1 game bird in the United States, with more than 45 million shot annually.

Kill bill, not birds

Rep. James Jensen's House bill to allow the Fish and Game Commission to establish a hunting season for mourning doves in Montana, which he contends would promote family unity for parents to hunt with their children and teach them to kill doves as a family sport, seems ironic in that he could convince 52 members of the House to agree to destroy innocent birds which have contributed to the joy of mankind since Biblical times.

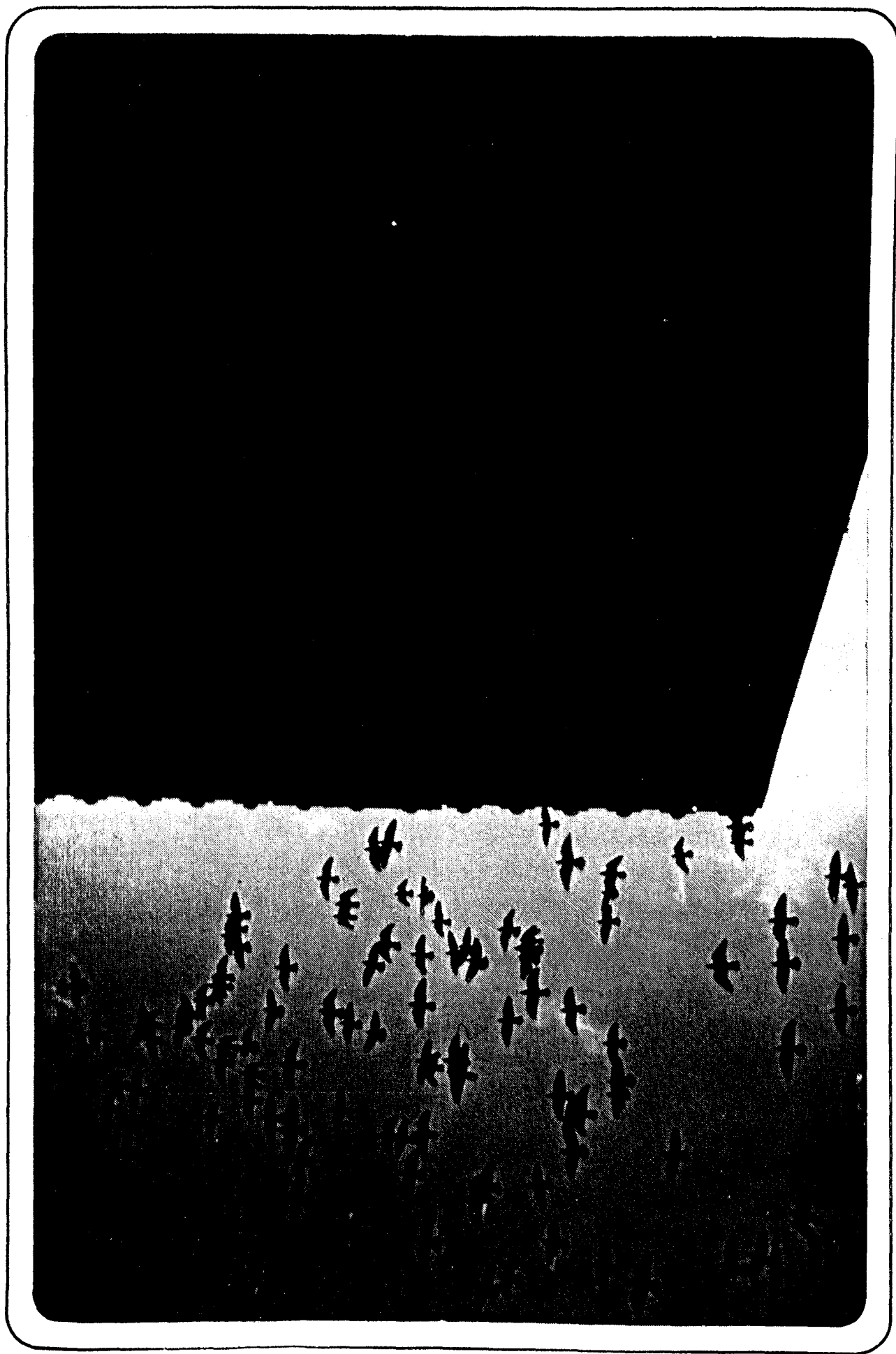
I refer to Mr. Jensen's and the members of the Legislature's attention Cher Ami, a dove of English breed (NVRP 615 blue cheek cock), whose body has been mounted and placed in the Smithsonian, having been credited with saving "The Lost Battalion," otherwise attached to the New York Battalion, 77th Division, commanded by Major Charles D. Whittlesey, Oct. 27, 1918.

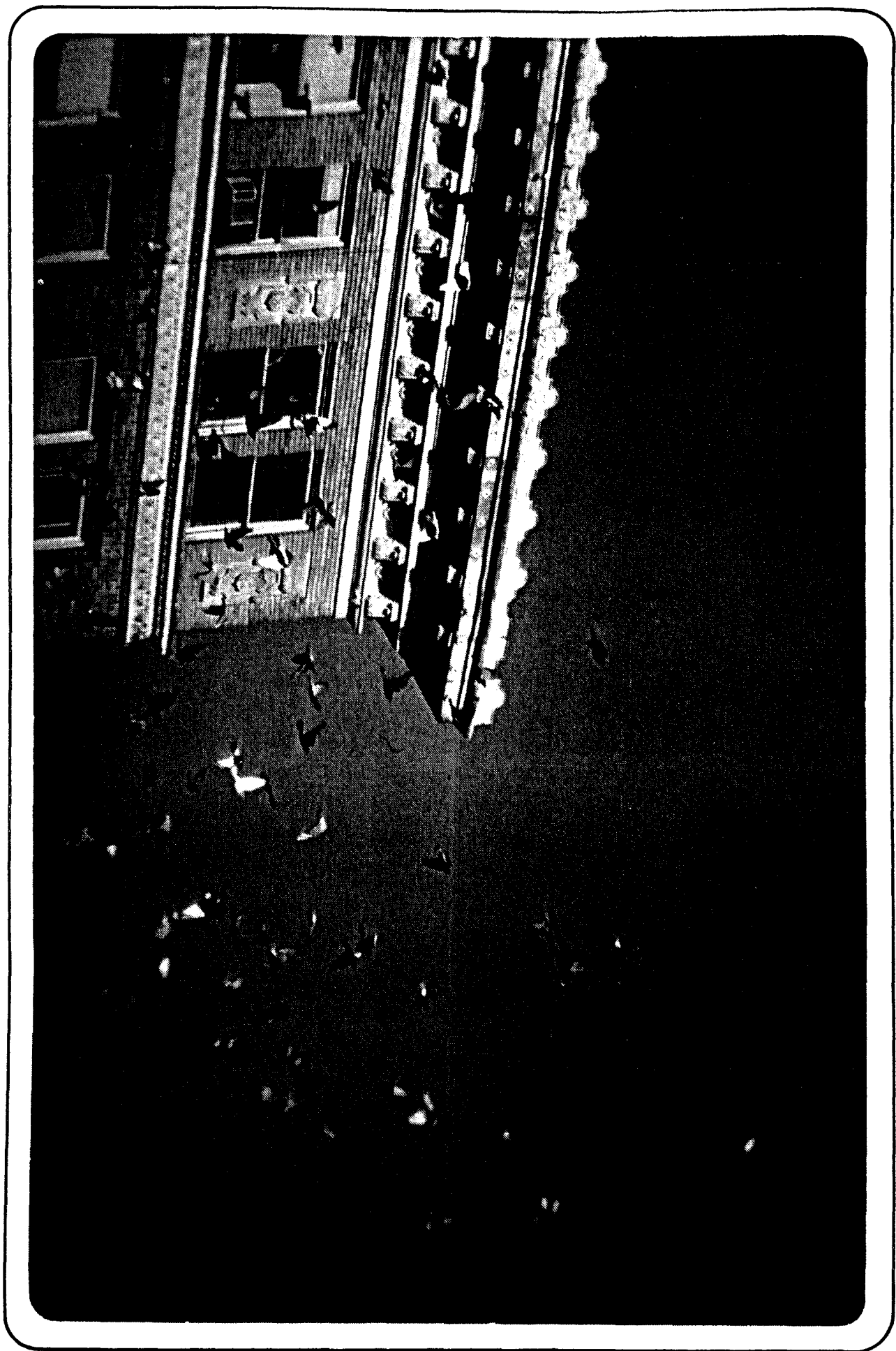
Surrounded by the enemy, every endeavor to make liaison had failed. Cher Ami, with a message attached to his foot, rose, the instinct of returning to his home loft uppermost in his throbbing heart. Through a barrage of shells and bullets he rose, circled, and like a dart headed for "home." A burst of shrapnel and Cher Ami was hit; one leg shattered, he reached his loft in 25 minutes. The missile had passed through his breast. The message holder was attached to his wounded leg hanging by a few shreds of sinew. Cher Ami that day saved "The Lost Battalion."

To think of all the doves fed by thousands of people everywhere, by children and adults in our parks, above roof tops, by cathedrals and maybe on the steps of the Montana

State Capitol!

When this bill appears in our Legislature for further consideration, I think that Mr. Jensen should apologize and present a better project for occupying the valuable time of our representative. — Edward Sharp, 405 Wilma Building, Missoula.





MISSOULA COUNTY

JANET L. [REDACTED] Stevens

DEPARTMENT NO. 1
JUSTICE OF THE PEACE
MISSOULA COUNTY COURTHOUSE
MISSOULA, MONTANA 59802

Exhibit 6
March 19, 1983

March 21, 1983

Dear Mr. Sharp:

When I returned to work Monday, March 21, 1983 (after being out of town for a few days) I was appalled to find that you had, without my permission, used my name in a Senate hearing concerning a mourning dove bill # H.B 836 submitted by my former husband, and friend, Representative Jim Jensen. Not only did you use my name but you also misquoted what I said to you. I said "Jim was born in Utah where hunting mourning doves is legal and "we" did hunt mourning doves and for as small as they are Jim was a very accurate shot." I further stated and admitted that there "is not much meat to be had from a dove for all that work."

I definitely did not say Jim "hated" mourning doves and liked to "shoot them." Quite the opposite is true about Representative Jensen. You will not find a more loyal conservationist and friend of wildlife. It is my understanding that he is now a vegetarian, which is one step beyond your humanitarian habits as well as mine.

Representative Jensen has worked hard all of his life to preserve our surroundings and provide the natural habitat wild animals are familiar with and need for survival.

Further, for you to try to intimate through misstatements that my feelings for Jim are less than amicable makes me "sick" and I will not allow you to get away with it!

I also did not consent to write the Senate Fish & Game Committee. I said I would consider it and did so but decided not to write because of my limited knowledge concerning wildlife and its preservation.

Finally, I am not a law enforcement officer. I am a Judge and pride myself in maintaining a separation of law enforcement and the Judiciary. It's unfortunate that other "prominant" people such as yourself don't take the time to know the difference, especially if they consider themselves knowledgeable enough to discuss it.

This will serve as notice to you that I expect a full apology in writing to me and especially to the Senate Committee and Representative Jensen for your unfortunate verbage.

Sincerity,

Janet L. Jensen-Stevens
Janet L. Stevens

JLS/ss

CC Rep. Jim Jensen

CC Sen. Ed Smith

CC Members Senate F&G Comm.

March 1983

Testimony opposing HB836
Senate Fish & Game Committee
Senator Ed Smith, Chairman

My husband and I strongly oppose legalizing the hunting of morning doves.
I also represent the Lewis & Clark Humane Society.

I understand that these birds are commonly poached in Montana. I don't see how having a season in which to shoot them will in any way stop the poaching of them the rest of the year, or maybe the state of Montana is only able to protect game animals and not non-game wildlife.

I am also told that Montana is only one of two states west of the mississippi that doesn't have a dove hunting season. This fact is used as a reason for having a season. Do Montanans have to do everything everybody else is doing?

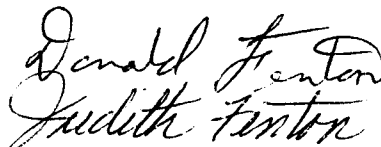
I worry that one reason this bill was proposed is to generate additional hunting license fees for the Fish & Game Department. I hope they are not generating revenue at the expense of the wildlife that they should protect. The fact that doves are fairly numerous shouldn't be an excuse for killing them. They do no significant crop damage in the State.

With the trouble that Montana has been having with pesticide contamination recently of game birds, hunters are not using the ducks and other birds that they now shoot. They are surely not going to be shooting these doves to eat. Even without possible contamination, doves are hardly worth eating. The ~~the~~ only reason for having a season on them would be just to give certain people something else to shoot at.

I enjoy shooting a gun myself. I've even taken rifle marksmanship. I also enjoy working with dogs. I have two that I have obedience trained, but someday I hope everyone will realize that shooting and working with dogs doesn't have to also mean killing a poor creature that hasn't done anyone any harm. Until man learns to respect all living things he will always feel a little loss of respect for himself.

I urge this committee to recommend DO NOT PASS on HB 836.

Donald & Judith Fenton
Blue Sky Heights
Clancy, MT 59634



Lewis & Clark Humane Society
P.O. Box 274
Helena, MT 59624

Sample tax forms with Nongame Check-offs

Colorado

Exhibit 8, March 19, 1983, Submitted by Representative Fabrega

ATTACH CHECK OR MONEY ORDER HERE

52 TOTAL CREDITS, ADD LINE 48 THROUGH 51

REFUND OR BALANCE DUE

53 IF LINE 52 IS LARGER THAN LINE 47, ENTER AMOUNT COLORADO OWES YOU

54 COLORADO NONGAME WILDLIFE PROGRAM. CHECK IF YOU WISH TO DESIGNATE ☐ \$1, ☐ \$5, ☐ \$10, OR ☐ (WRITE AMOUNT) OF YOUR TAX REFUND TO THIS PROGRAM. IF THIS IS A JOINT OR COMBINED RETURN, CHECK IF SPOUSE WISHED TO DESIGNATE ☐ \$1, ☐ \$5, OR ☐ \$10, OR \$ (WRITE IN AMOUNT)

55 AMOUNT OF OVERPAYMENT (LINE 53 MINUS LINE 54) YOU WISH TO HAVE REFUNDED TO YOU

56 IF LINE 47 IS LARGER THAN LINE 52, ENTER THE AMOUNT YOU OWE COLORADO.

MAKE CHECK OR MONEY ORDER PAYABLE TO THE COLORADO DEPARTMENT OF REVENUE.

INCLUDE PENALTY \$ AND INTEREST \$ IF APPLICABLE

57 AMOUNT OF OVERPAYMENT YOU WISH CREDITED TO 1982 ESTIMATED TAX

MAIL TO THE COLORADO DEPARTMENT OF REVENUE
1375 SHERMAN STREET, DENVER, COLORADO 80261

Utah

19. Utah Income Tax (from Tax Rate Schedules on back of form)

20. Credit for Utah Income Tax withheld (attach withholding forms)

21. Credit for Income Taxes Paid to Another State (complete Schedule A on back of form)

22. Credit for Utah Income Tax Prepaid

23. Other Credits (complete Schedule C on back of form)

24. Total Credits (add lines 20 through 23)

25. Additional Tax Due - If line 19 is larger than 24, subtract line 24 from line 19 and enter balance - PAY THIS AMOUNT

26. Refund - If line 24 is larger than line 19, subtract line 19 from line 24 and enter balance

27. Utah Nongame Wildlife Fund. I wish to contribute ☐ \$1 ☐ \$5 ☐ \$10 or \$ (enter amount)

☐ I do not wish to contribute. Enter contribution amount on line 27 at right

28. Net Refund - subtract line 27 from line 26. This amount will be refunded to you. Please allow 90 days for processing

Send return and payment to: UTAH STATE TAX COMMISSION
HEBER M. WELLS OFFICE BUILDING

29. Did you file a Utah return for 1981?

☐ YES ☐ NO

FOR OFFICIAL USE ONLY
CODE APPROVAL

Idaho

44. Contributions to Youth and Rehabilitation facilities (see Instructions)

45. TOTAL OF LINES 40 thru 44

46. Line 39 minus Line 45, but not less than zero

47. Permanent Building Fund Tax (Read Instructions carefully)

48. TOTAL TAX. LINE 46 PLUS LINE 47

49. I wish to donate ☐ None ☐ \$1 ☐ \$5 ☐ \$10 or \$ to the Nongame Wildlife Fund

50. I wish to donate ☐ None ☐ \$5 ☐ \$10 to the U.S. Olympic Fund. Enter any dollar amount up to \$10, if married filing jointly or up to \$5 for any other filing status

NOTE: Your donation will either REDUCE the amount of your refund or INCREASE the amount you have to pay

51. Total Tax plus Donations, Line 48 plus Lines 49 and 50

Kansas

9. BALANCE DUE (If line 7 is greater than line 8) Interest [Q] Penalty [R]

[S] 9

10. REFUND (If line 8 is greater than line 7)

[V] 10

KANSAS NONGAME WILDLIFE IMPROVEMENT PROGRAM. Check if you wish to donate, in addition to your tax liability, () \$1, () \$5, () \$10 or () \$ or designate () \$1, () \$5, () \$10 or () \$ of your tax refund for this program. If joint return, check if spouse wishes to donate or designate () \$1, () \$5, () \$10 or () \$ Enter total on line 11

[W] Total Wildlife Contribution

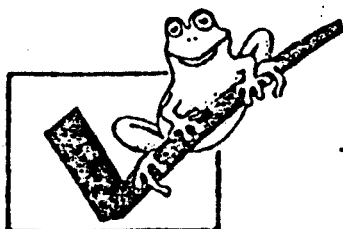
11

For Office Use Only

I declare under the penalties of perjury that to the best of my knowledge and belief this is a true, correct, and complete return

D E

Illustration by
New Jersey Nongame Wildlife
Fund



STATE INCOME TAX CHECK-OFF PROGRAMS

FUNDING RESULTS

States with Programs	Year Bill Signed	Tax Year	Totals	Contributors	% of Persons Having Refunds Contributing	Average Contribution
Alabama	1982	----	----	----	----	----
Arizona	1982	----	----	----	----	----
Colorado	1977	1977	350,000	90,000	9.0%	\$3.89
		1978	501,000	118,600	12.0%	4.22
		1979	647,200	129,300	11.9%	5.00
		1980	740,000	139,850	12.7%	5.30
		1981	692,000	124,000	12.4%	5.60
Idaho *	1981	1981	102,500	22,000	----	4.43
Indiana	1982	----	----	----	----	----
Iowa	1982	----	----	----	----	----
Kansas	1980	1980	128,788	21,786	3.6%	4.87
		1981	130,193	----	----	----
Kentucky	1980	1980	85,619	13,611	1.2%	6.29
		1981	80,000	11,038	1.3%	7.20
Louisiana	1981	1981	344,198	35,858	2.5%	10.42
Minnesota	1980	1980	569,277	170,177	9.8%	3.39
		1981	624,899	195,503	11.4%	3.20
New Jersey	1981	1981	403,000	100,000	4.8%	4.05
New Mexico	1981	1981	256,000	24,000	4.6%	10.68
New York	1982	----	----	----	----	----
Oklahoma	1981	----	----	----	----	----
Oregon	1979	1979	347,000	94,848	11.5%	3.42
		1980	359,981	97,803	11.1%	3.68
		1981	272,152	65,916	8.1%	4.13
Pennsylvania	1982	----	----	----	----	----
South Carolina	1981	1981	100,000	20,500	2.0%	4.85
Utah	1980	1980	216,594	55,366	16.0%	3.91
		1981	204,726	47,942	14.1%	4.27
Virginia	1981	1981	371,000	61,692	3.4%	5.92
West Virginia	1981	1981	164,649	37,340	7.9%	4.41

*Idaho estimates that 6% of the taxpayers contributed to their
nongame wildlife program in its first year.

SURVEY OF STATE NONGAME WILDLIFE
PROGRAMS

49 states now have nongame wildlife programs

<u>Funding Source</u>	<u>Example of State with this Method</u>
Hunting and Fishing License Fees	Montana Wyoming
Sales Tax (1/8 of 1% sales tax)	Missouri
Personalized auto tags	Washington
Shoulder patches	Only Pennsylvania tried this method--they now use an income tax check-off
T-shirt Sales	Michigan uses this in conjunction with hunting and fishing license fees
General Funds	Nebraska Nevada New Jersey used this method initially but now uses the tax check-off method
Wildlife (Nongame) Stamps	Colorado, Pennsylvania and Montana have all tried this method--it failed in each state due to inconvenience. Colorado and Penn. now use an income tax check-off.
Income tax check-off	now used in 20 states (see attached sheets)

STATE OF COLORADO

DEPARTMENT OF REVENUE

State Capitol Annex
1375 Sherman Street
Denver, Colorado 80261



November 29, 1982

Harriet Marble, President
Montana Audubon Council
P. O. Box 649
Chester, Montana 59522

Dear Ms. Marble:

Mr. James Phelps has requested we contact you concerning the participation by taxpayers in the nongame wildlife check-off and the costs to the Colorado Department of Revenue of operating the program.

We have not made any specific studies concerning the administrative costs of the wildlife check-off since it is integrated into the overall income tax processing and since no additional personnel have been added as a result of this program.

On an allocated cost basis, it is doubtful that overall administrative costs would exceed several thousand dollars. For example, during the past fiscal year the department processed 126,881 returns with a wildlife check-off amount. Recording an accounting code and the dollar amount represents four data entry keystrokes per return. At an average keystroke rate of 5,000 per hour and an average hourly wage of \$5.87 per hour, the data entry costs would be \$596. Only 571 returns required accounting adjustments largely as a result of taxpayers entering their entire refund on the check-off line instead of the refund line.

There are two factors which contribute to low administrative costs. One is to allow the taxpayers to donate any amount of their refund to the wildlife fund and the second is to accept payments with returns from taxpayers without refunds by treating these payments as overpayments to be credited to the fund.

Enclosed is a summary of the nongame wildlife check-off participation along with a copy of our income tax return. Please advise if you need additional information.

Sincerely,

Stanley B. Schwartz
Chief, Research and Statistics



THE STATE OF UTAH

STATE TAX COMMISSION

SALT LAKE CITY, UTAH 84134

IN REPLY REFER TO:

January 21, 1983

Montana Audubon Council
Box 464
Helena, MT. 59624

Attn: Ms. Louise Bruce

Dear Ms. Bruce:

This is in reply to your questions regarding the Utah non game wild life check-off system.

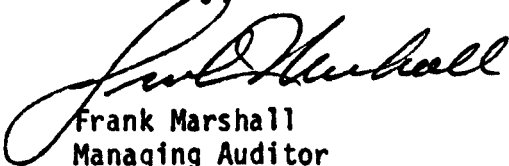
The Utah Tax Commission has administered this fund for three years. The system has turned out to be very simple, with very little cost involved. Most of the work is handled by the computer.

The only costs that have been involved are the cost of printing an extra line on the return, the costs of a small program change on the computer, the key punch expense and the cost of making a monthly journal entry. The costs are so small that we have not even tried to break them out of our normal processing costs.

We have collected \$207,649.83 for 1981 with 48,619 returns checking off a contribution.

I have enclosed a copy of our three 1982 Utah income tax returns as you requested.

Sincerely,



Frank Marshall
Managing Auditor
Income Tax

FM:lh
Enclosures - 3

HB377

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

March 19, 1983

I appear today in support of HB377.

The Department of Fish, Wildlife, and Parks has the statutory responsibility for the management of nongame species in Montana. These obligations and authorities are found in Sections 87-5-101 through 87-5-112, MCA, and include:

1. The department shall conduct ongoing investigations of nongame wildlife.
2. The department shall issue regulations deemed necessary to manage certain nongame species.
3. The director shall establish such programs as are deemed necessary for the management of nongame wildlife.

In implementing these charges, the department has proposed a budget of \$49,000 for this fiscal year. This funds one full-time nongame wildlife biologist as well as a part-time position part of the year and the accompanying support for clerical assistance, travel, per diem, etc.

Priorities for the nongame effort are identified in a variety of ways. Concerns expressed by the public, deliberate discussions at all levels within the department, the fact that some species continually turn up in planning documents and environmental impact statements, and the use by federal land managers of indicator species all have an impact upon the program's scope.

A 1975 evaluation of nongame species resulted in a numerical ranking based on biological security, public appeal, and on the economic and ecological impact from an increase in a species numbers. This exercise resulted in a list of species of special interest or concern.

In addition, the legislature has given the department the authority and responsibility to initiate management programs, rules and regulations for species which have been declared to be "in need of management". It is important to note that at this time additions to or deletions from this list must be approved by the legislature. At the present time, no species is felt to be "in need of management".

The foregoing is a process now on the books and is being implemented. The measure before you addresses the funding of that process. We feel this is an important aspect for even though the laws have been with us for some time, funding for the program has not been forthcoming. As a result, we have been forced to rely on funding sources which have traditionally been reserved for game species. These include license fees as well as Pitmann-Robertson funds derived from excise taxes on firearms and ammunition.

The reactions to our general license fee increase serve as a stimulus to search out those programs which should be supported by other funding sources. The "user pay concept" must be invoked. At the present time, there is no viable manner for nonhunters to help pay for the program of which they are the chief beneficiaries.

The fiscal note for HB377 indicates an income of \$100,000 to \$180,000 from the check-off system. These figures are arrived at by using the experience of states like Colorado and Oregon. It is probable that these estimates are high and that a more viable figure would be less than \$100,000. This lower figure would seem more appropriate when comparing Montana's rural state to the more urban states of Oregon and Colorado.

If the department were to receive more funding we would not anticipate adding more staff to our existing personnel. We would expand our operations into the following areas:

1. Development of a centralized data system to record status and distribution of nongame species.
2. Accelerate our schedule of nongame inventories on our wildlife management areas.
3. Conduct nongame research projects in the University System through our stipend program.
4. Conduct status-determining investigations of selected species such as ospreys or groups of species such as shore birds.
5. Conduct research with the Department of Agriculture on environmentally safe methods of vertebrate pest control.

This measure received amendments in the House of Representatives to address some of the concerns expressed before that body. Those amendments are feasible and acceptable.

In summary, there is a need for nongame activities to be funded by nonhunting license dollars. At the same time there is a need and a statutory responsibility to conduct a program. It would seem that HB377 would address both needs.



Montana Audubon Council

P.O. Box 649, Chester, Montana 59522

March 19, 1983

Mr. Chairman and Members of the Committee:

This statement presented in support of House Bill 377, the non-game funding bill. I appreciate very much the opportunity to be at this hearing and to have my comments heard.

By now you are more accustomed to citizens opposing further taxation, but we are here today to request that a system to allow voluntary levy be established for purposes of great interest to many Montanans. I am referring to HB 377 which would provide a voluntary means of raising funds for Montana's Nongame Program.

I am President of the Montana Audubon Council which has eight chapters and 2700 members in Montana. I also served on the Montana Nongame Advisory Board and became familiar with all the various methods by which nongame programs could be and have been funded in the other 50 states. To date 20 states have adopted the voluntary check-off method and it is by far the most common way to fund nongame programs in other states.

Montana has now had the nongame program for 10 years but funded by only sportsmen's dollars. We think it is time that hikers, bird-watchers, campers, outdoor photographers and other interested persons be allowed to contribute to the wildlife resource programs of the state of Montana. The voluntary check-off provisions of HB 377 would provide a source of money to the nongame program from these nonhunters who enjoy and use the outdoor resource as much as sportsmen. Without such a voluntary checkoff, these funds are not otherwise available since the state of Montana has no other comparable system to obtain funds from persons who enjoy the natural environment of the state of Montana but who do not purchase hunting or fishing licenses.

The program has been successful in other states and there is no reason that it can't be equally successful in Montana. The Montana Audubon Council would greatly appreciate a "do pass" recommendation from this committee.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Harriet Marble". The signature is fluid and elegant, with a large initial 'H'.

Harriet Marble, President

WHAT IS A NONGAME ANIMAL ?

These animals are not nongame

Game*

Elk
Ducks
Geese
Trout
Bear
Deer

- includes grizzly

Furbearers

Mink
Martens
Fishers
Otters
Bobcats
Canada Lynx
Beavers
Northern Swift Fox
Wolverines

Predators

Coyotes
Skunks
Weasils
Civet Cats

Endangered Species

Whooping Crane
Black-footed Ferret
Timber Wolf
Peregrine Falcon

no money spent on
be endangered
species

Exhibit 11

Submitted by Janet Ellis
March 19, 1983

These animals are nongame

Nongame*

White Pelican
Pika
Grasshopper Mouse**
Raccoon
Masked Shrew
Snowshoe Hare**
Bison
Big Brown Bat
Western Big-eared Bat
Woodpeckers
Black-tailed Prairie Dog**
Sagebrush Lizard
Golden Eagle***
Western Toad
Yellow Perch
Pumpkinseed
Osprey
Great Blue Heron
Western Meadowlark
Flying Squirrel
White-tailed Cottontail
Least Chipmunk
Sagebrush Vole
Great Horned Owl***
Painted Turtle

*These are not complete lists of animals--they are only examples.

**The Department of Livestock controls these animals when they become pests under 81-1-401 MCA.

***These animals can be destroyed if they destroy livestock or poultry under 87-5-209 MCA.

81-1-304. Appointment of federal veterinary inspectors. With the approval of either the federal veterinarian in charge in this state or the United States department of agriculture, the department of livestock may appoint federal veterinarians or federal lay inspectors stationed in this state, as deputies or agents for the department. All federal officers so appointed as deputies or agents of the department possess the powers and duties of regular deputies or agents of the department, but they shall act without compensation and hold office only at the pleasure of the department.

History: En. Sec. 6, Ch. 262, L. 1921; re-en. Sec. 3265, R.C.M. 1921; re-en. Sec. 3265, R.C.M. 1935; amd. Sec. 54, Ch. 310, L. 1974; R.C.M. 1947, 46-206.

Part 4

Rodent Control

81-1-401. Department to operate rodent control program. The department may establish and operate organized and systematic programs for the control and suppression of jackrabbits, prairie dogs, ground squirrels, pocket gophers, rats, mice, and other rodents and related animals in this state when they are injurious to agriculture, other industries, and the public health. For this purpose, the department may enter into written agreements with appropriate federal agencies, other state agencies, counties, associations, corporations, or individuals covering the methods and procedures to be followed in the control and suppression of these noxious rodents and related animals, the extent of supervision to be exercised by the department, and the use and expenditure of funds appropriated, when this cooperation is necessary to promote the control and suppression of noxious rodents and related animals.

History: En. Sec. 1, Ch. 136, L. 1949; amd. Sec. 44, Ch. 310, L. 1974; amd. Sec. 1, Ch. 242, L. 1975; R.C.M. 1947, 3-2701.

81-1-402. Expenditures authorized. The department may make expenditures for equipment, materials, supplies, and other expenses, including expenditures for personal services, which are necessary to execute the functions imposed on it by this part.

History: En. Sec. 2, Ch. 136, L. 1949; amd. Sec. 45, Ch. 310, L. 1974; R.C.M. 1947, 3-2702.

81-1-403. Purchase and sale of rodent control supplies. In addition to the expenditures authorized in 81-1-402, the department may purchase rodent control supplies, including rodent baits, for the use of cooperating governmental agencies, counties, associations, corporations, or individuals in the control of noxious rodents and related animals and to make these supplies and baits available to the cooperators at approximate cost.

History: En. Sec. 4, Ch. 136, L. 1949; amd. Sec. 105, Ch. 147, L. 1963; amd. Sec. 46, Ch. 310, L. 1974; R.C.M. 1947, 3-2704.

CHAPTER 2

DISEASE CONTROL

Part 1 - General Administration

Section

81-2-101. Authority of department agents.

81-2-102. Powers of department.

81-1-401. Under this section, animals that become pests can be controlled by the Department of Livestock.

HB 85 (signed by Governor this session)

added to list of pests:

bats

racoons

starlings

blackbirds

other birds

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(10), (11).

87-5-208. Nonresidents allowed raptors in state. Nonresidents who are working, attending schools, or otherwise living temporarily in the state of Montana may obtain a Montana falconry license and bring raptors, legally acquired in other states or countries, into the state of Montana. Such nonresidents shall be allowed to hunt with falcons in the state of Montana subject to all Montana laws and rules.

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(10).

87-5-209. Destruction of eagles or predatory hawks and owls. Predatory hawks and owls destroying livestock or poultry may be killed at any time by the livestock or poultry owners. Eagles may be killed in compliance with federal law and regulation.

History: En. Sec. 3, Ch. 309, L. 1971; amd. Sec. 34, Ch. 511, L. 1973; amd. Sec. 1, Ch. 34, L. 1974; amd. Sec. 39, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-501.1(17).

87-5-209. Under this section eagles, hawks & owls destroying livestock or poultry may be killed.

Part 3

Grizzly Bear and Wild Buffalo

87-5-301. Policy toward grizzly bear. It is hereby declared the policy of the state of Montana to protect, conserve, and manage grizzly bear as a rare species of Montana wildlife.

History: En. Sec. 1, Ch. 134, L. 1969; R.C.M. 1947, 26-307.2.

87-5-302. Commission regulations on grizzly bear. The commission shall have authority to provide open and closed seasons; means of taking; shooting hours; tagging requirements for carcasses, skulls, and hides; possession limits; and requirements for transportation, exportation, and importation of grizzly bear.

History: En. Sec. 2, Ch. 134, L. 1969; R.C.M. 1947, 26-307.2.

87-5-303. Wild buffalo protected. It is unlawful to hunt, shoot, kill, capture, or possess wild buffalo except as permitted by rules adopted by the department.

History: En. Sec. 4, Ch. 167, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-307.1.

87-1-221a. Regulation of wild animals damaging property. Upon the request or complaint of any landholder or person in possession and having charge of any land in the state that wild animals of the state protected by the fish and game laws and regulations are doing damage to the property or crops thereon the department shall investigate and study the situation with respect to damage and depredations. The department may then decide to open a special season on the game or if the special season method be not feasible, the department may destroy the animals causing the damage. The department may authorize and grant the holders of said property permission to kill or destroy a specified number of the animals causing the damage. No wild ferocious animal damaging property or endangering life shall be covered by this section. History: En. Sec. 10 Ch. 66, 1907; and Sec. 13, Ch. 917, 1917; McCr., 1947, 20-139.

87-1-225. If an animal is "protected" under Montana law, this section gives the Department of Fish, Wildlife & Parks the authority to destroy an animal that is causing damage to property or crops.

87-1-222a. Disposition of meat of animals damaging property. The meat of all animals killed or destroyed pursuant to 87-1-225 by the department or the authorized landholder shall be conserved and given to state institutions, school lunch programs, or the department of social and rehabilitation services. The department shall provide transportation and distribution of the meat. History: En. Sec. 2, Ch. 66, 1907; and Sec. 22, Ch. 511, 1917; McCr., 1947, 20-136.

87-1-227a. Hunting rights on adjoining federal wildlife preserves. (1) The department shall negotiate for and enter into written agreements with various lessees, or others having control of areas, tracts or parcels of land adjoining or contiguous to any United States federal wildlife preserve, including any wildlife refuge for migratory waterfowl in any section of Montana, for the purpose of securing equal hunting and shooting rights for all resident holders of fish and game licenses in Montana on such adjoining and contiguous lands and preventing such preserves from being surrounded by lands whereon such licenses may not enter. The department shall, further, open or cause to be opened to public hunting and shooting of migratory waterfowl on any roads, lanes and trails not a part of the traveled portion of any federal-aid highway system within a 1-mile limit from the boundaries of any such preserve or refuge. The department shall cause any such areas, tracts, roads, lanes or trails to be plainly posted with clear signs showing the boundaries of the areas, tracts, roads, lanes, or trails open to shooting and hunting by licensees.

(2) The department is hereby authorized to negotiate the payment of a reasonable sum to landowners, lessors, or lessees for the right of the department to create a public shooting area upon their lands. The amount they may be paid for such purpose shall rest in the discretion of the department. History: En. Sec. 1, 2, Ch. 224, 1943; and Sec. 13, Ch. 917, 1917; McCr., 1947, 20-120, 20-121.

87-1-228a. Agreement with Indians concerning hunting and fishing. Indian treaty of 1855 (1) whereon by treaty of July 10, 1855, between the United States of America, represented by Isaac I. Stephens, governor and superintendent of Indian affairs for the territory of Washington, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Bannock, and Upper Pend d'Oreille Indians, the said Indians were given the exclusive right to fish and hunt on the Flathead Indian reservation and the

1973 Nongame and Endangered Species Act

(6) "person" means any individual, firm, corporation, association or partnership.
 (7) "takes" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.
 (8) "wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg, or offspring or the dead body or parts thereof.
 History: En. Sec. 2. (Ch. 461, L. 1973) and, Sec. 12. (Ch. 417, L. 1977; R.C.M. 1947, 26-180(13)). (Part (4)), (5) thru (10).

27-5-103.---Legislature--Declares The legislature finds and declares all of the following:
 (1) that it is the policy of this state to manage certain nongame wildlife for human enjoyment for scientific purposes and to insure their perpetuation as members of ecosystems;
 (2) that species or subspecies of wildlife indigenous to this state which may be found to be endangered within the state should be protected in order to maintain and to the extent possible enhance their numbers;
 (3) that the state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered elsewhere by prohibiting the taking, possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of species or subspecies of wildlife unless such actions will assist in preserving or propagating the species or subspecies.
 History: En. Sec. 3. (Ch. 461, L. 1973; R.C.M. 1947, 26-180C).

27-5-104.---Investigations--By--Department The department shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. The department shall conduct ongoing investigations of nongame wildlife.
 History: En. Sec. 4. (Ch. 461, L. 1973) and, Sec. 13. (Ch. 417, L. 1977; R.C.M. 1947, 26-180C(part)).

27-5-105.---Regulations--to--manage--wildlife (1) On the basis of the determinations made pursuant to 27-5-104, the department shall issue management regulations. Such regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to 27-5-104 through 27-5-106, giving their common and scientific names by species and subspecies. The department may from time to time amend such regulations on the approval of the legislature by adding or deleting therefrom species or subspecies of nongame wildlife.
 (2) The department shall by such regulations establish proposed limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage such nongame wildlife. The department may make such changes in the proposed regulations as are consistent with effective management of nongame wildlife as designated by the legislature.
 History: En. Sec. 6. (Ch. 461, L. 1973) and, Sec. 13. (Ch. 417, L. 1977; R.C.M. 1947, 26-180C(part)).

27-5-106.---Unlawful--Act--Except as provided in regulations issued by the department, it shall be unlawful for any person to take, possess, transport, export, sell, or offer for sale nongame

87-5-104 (1). Under this section the Department of Fish, Wildlife and Parks can issue management regulations for nongame animals listed as "in need of management." The last sentence in this section clearly states that animals are listed as "in need of management by legislative approval only. After the Legislature reclassifies an animal form a "nongame animal" to "a nongame animal in need of management" the Department can pass regulations. It takes legislative action to reclassify these animals. As of 1983, no animal is listed as "a nongame animal in need of management." The Wolverine is the only animal that has been on this list. That animal was taken off the list an reclassified as a "Furbearer" in the 1970's.

MONTANA WILDLIFE FEDERATION

Testimony on HB 377

Senate Fish & Game Committee

March 19, 1983

Mr. Chairman, members of the Committee, my name is Ken Knudson, here today representing the Montana Wildlife Federation in support of HB 377.

My organization is very proud of the fact that on a national scale, our state is known to have the finest wildlife populations to be found anywhere. The MWF also recognizes that of these populations, there are many more kinds of "watchable" wildlife populations than there are "hunnable" populations. We further realize that all kinds of wildlife live together in ways that make them interdependent upon each other and the land that they share with all of us.

It is truly unfortunate that very little is known about the over 100 mammals and 400 birds of our state, since nearly all of the past work and management has been centered around less than 3% of those animals - the ones that are actually hunted or trapped. Until 10 years ago, nongame animals were hardly even recognized within the programs of our state wildlife agency, even though they have obvious impacts and benefits to agriculture and "hunnable" wildlife alike.

Speaking as a wildlife biologist, I know that the population trends of many of these birds and mammals are very cyclic, reaching predictable peaks during certain years and plunging dramatically during others. Once these predictable ups and downs of populations are understood, we soon realize, for example, that there is no need to panic when we don't see as many bluebirds or burrowing owls during a given year. As to more direct applications to agriculture, if we can better predict when to expect an inevitable population "boom" year for certain kinds of small mammals, we can begin to investigate ways to modify agricultural practices during those years - including planting of more tolerant crops, changing range management schemes or implementing progressive population control methods, all of which will help alleviate potential impacts. Furthermore, if such population "booms" would likely impact the forage on the winter ranges of deer and elk, wildlife biologists would realize that more huntable animals would have to be harvested that year to prevent many of them from grazing on haystacks or starving to death during winter. The point is, understanding nongame animals will potentially benefit everyone. Lack of understanding, which is pretty much where we are now, is not helping anyone.

In previous testimonies against this funding bill, there has been concern expressed about how this very small and in our opinion, very underfunded program, might impact private landowners. The answer to this - if we all recognize and appreciate the potential of the program - is that they will not be impacted at all; rather, if understanding the needs of nongame animals is approached in a positive manner, the program will be of increasing benefit to everyone. There is no reason why a large portion of the information generated by this program couldn't be aimed at benefiting both the people interested in wildlife management and the people involved in making a living off the land.

The amendment that we understand Senator Lee will be offering today should help do this. By requiring that the Fish and Game Commission approve the usage of all funds for the nongame program, a public forum will be established to discuss where, how and to what the program will be directed.

The MWF hopes that there will be active participation by all segments of the public during the establishment of priorities for the nongame program. We also hope that there eventually will be generous voluntary contributions to the program by everyone - landowners and recreationists alike.

The MWF would therefore request that this committee and this legislature give a do pass to HB 377, so we can have a funded watchable wildlife program in Montana like those that exist in most of our neighboring states. Nowhere else but Montana will you find a better wildlife or agricultural base; let's work together to keep it that way.

NAME: Betsy Spettigue DATE: 3-19-83

ADDRESS: 4756 Itana Circle, Bozeman MT
59715

PHONE: 406-586-3747

REPRESENTING WHOM? SELF

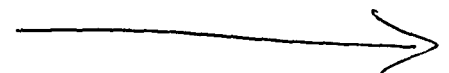
APPEARING ON WHICH PROPOSAL: HB#377

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT: Question of Precedence: HB#377 Funding

- ① The structure of private groups is not such that the state can collect monies for their use - only public purposes.
- ② State Agencies: can ask for a check-off BOT:
 - (a) other state groups do not have the same qualifications that the non-game program does because
 1. 1973 Nongame Act mandates the state to have a non-game program.
 2. most state agencies have access to the General Fund. Traditionally, the MT dept. of Fish, Wildlife + Parks has been an exception to this - supported by hunting + fishing license fees. Follows tradition by this funding means.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



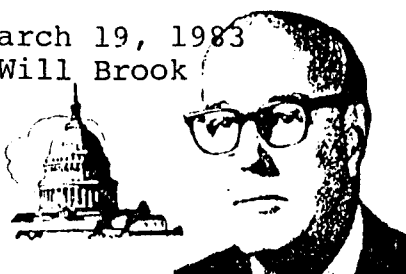
3. Non-game program is not a special interest concern. Wildlife benefits everyone.

(B) Other states with non-game check-off have either not had this problem or have handled it as it came up.

(C) The legislature has the final word on the "precedent-setting" problem.

Exhibit 14, March 19, 1983
 Exhibit # / Submitted by Will Brook

VGA



der for 10 days halting the EPA from any further action on this program pending a hearing on a motion for a preliminary injunction by the Humane Society. The hearing was originally scheduled for Wednesday, March 27th with the possibility of a further postponement. At any rate, I will advise you further as soon as there is anything to report.

STATUS OF M-44

FROM REPORT NO. 2 & 3

Humane Society Sues EPA. The Humane Society of the United States is bringing suit against EPA in the Federal District Court in Washington, D.C. for instituting the M-44 experimental program in Texas. Yesterday Judge Flannery issued a temporary restraining order for ten days against EPA to prohibit establishment of the program. Next Monday, March 11, there will be a hearing on a motion for a preliminary injunction by the Humane Society. If the Humane Society should prevail in the hearing next Monday, we are advised that would have the effect of continuing the restraining order. In that case, the EPA could appeal and go to trial. If the judge rules against the Humane Society next Monday, then that organization could appeal but in the meantime the program would go back into effect.

Some of you may be wondering about the status of the suit filed by the Humane Society of the United States against the Environmental Protection Agency to halt the experimental M-44 program in Texas. Judge Flannery of the U.S. District Court here on March 4th issued a temporary restraining or-

In the meantime, the predator control suit has been filed by the State of Wyoming, Wyoming Wool Growers Association and others against the Interior Department, EPA, Agriculture Department and the Department of Health Education and Welfare. This suit has been filed in the U.S. District Court in Wyoming.

Land Use Bill Stymied. The powerful House Rules Committee, which determines whether or not a bill can reach the House floor for action, this week, by a 9 to 4 vote, halted floor consideration of H.R. 10294 the Land Use Planning Bill. This is the bill we have opposed because it intrudes on states' rights and could adversely affect state and local land planning as well as uses of private property. Representative Morris K. Udall (Ariz.), principal sponsor of the measure, said the action of the Rules Committee was a "temporary setback", but another Arizona Congressman, Sam Steiger, said he would be very surprised if the bill were revived this year. Steiger has a substitute bill, H.R. 11325, ready to offer on the House floor if and when Udall's bill is considered. Steiger's bill will be much more acceptable to the livestock industry because it has virtually no specifications on what the states should include in their land use plans.

THE MOST DANGEROUS ANIMAL IN AMERICA.



In one year, sheep ranchers have caused the poisoning of 213,000 wild animals. Bobcats, bears, mountain lions, coyotes, foxes and even—God help us—hundreds of American bald eagles.

In 1972 the Administration banned these chain-of-death poisons as a move toward the "peace with nature" promised by the President.

Today, 21 U. S. Senators, all from wool-growing states, are pressing to have this poison ban rescinded.

Wire or write immediately asking that the administration hold fast to the poison ban. Send your message to Russell Train, Environmental Protection Agency and to Rogers C. B. Morton, Secretary of the Interior, both in Washington, D. C.

Extinct is Forever.

Please join us in protecting your animals, your land. If you can afford \$10 or more we'll send you a 24"x36" poster of 22 breath-taking endangered species, entitled "Extinct is Forever".

Alice Herrington, President
 Friends of Animals, Inc.
 11 W. 60th St., N.Y.C. 10023.

I'm with you. Enclosed is my contribution of \$___ (payable to FoA and tax-deductible) to be used solely for protecting animals.

Name _____
 Address _____
 City _____ State _____ Zip _____

FRIENDS OF ANIMALS

Exhibit # 2



BLACK-TAILED

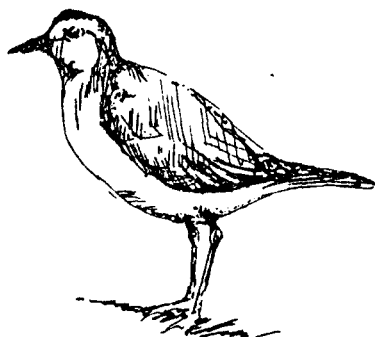
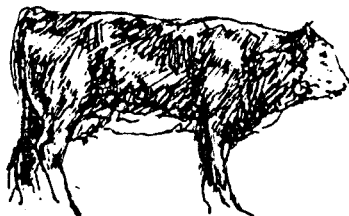
PRAIRIE DOG

CONTROL/MANAGEMENT
IN PHILLIPS RESOURCE AREA

Programmatic
Environmental
Assessment



AUG 16 1982



United States Department of the Interior
Bureau of Land Management
Lewistown District — Phillips Resource Area

JUNE 1982

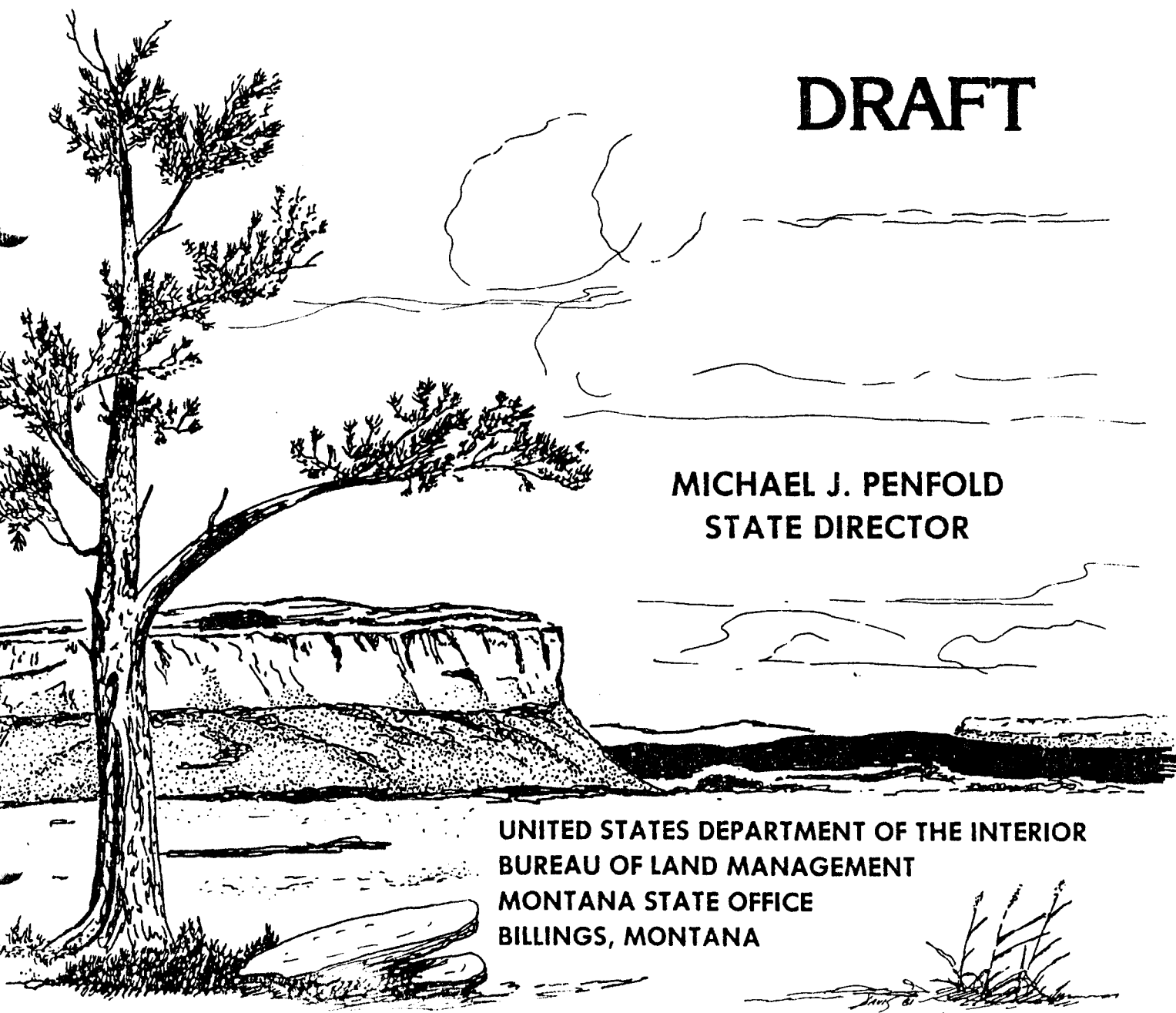
STATE DIRECTOR GUIDANCE FOR RESOURCE MANAGEMENT PLANNING IN IA AND THE DAKOTAS

Exhibit # 3

DRAFT

MICHAEL J. PENFOLD
STATE DIRECTOR

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MONTANA STATE OFFICE
BILLINGS, MONTANA



The BLM recognizes the prairie dog ecosystem as an integral part of the prairie environment, and that its perpetuation should be consistent with multiple use management of public lands. The following policies shall apply in this regard:

1. Selected prairie dog towns will be maintained at a level to support a viable population of prairie dogs for public uses, including nature study, scientific research, photography, educational study and sport hunting.
2. Selected prairie dog towns will be maintained at a level to provide habitats for more than 20 associated wildlife species, six of which have been designated as species of special concern by Montana Department of Fish, Wildlife and Parks.
3. Selected prairie dog towns will be maintained at a level to provide habitat for species designated as threatened or endangered by Federal and State laws. Currently, the black-footed ferret is the only endangered species known to use prairie dog towns as their primary habitat. Public lands will be maintained to support at least one wild selfsustaining population of ferrets in Montana as prescribed by the Fish and Wildlife Service's Blackfooted Ferret Recovery Plan.

Although some prairie dog towns may be managed primarily for wildlife and recreational values, others not selected for these purposes will be subject to multiple use management. Where prairie dogs are reported to damage public and adjoining private rangelands, the following policy shall apply:

1. Where it has been documented through field investigation that prairie dogs cause unacceptable damage to public resources, such as soil loss or destruction of vegetation, a variety of land treatments including prairie dog control will be considered for rehabilitating rangelands. Other treatments may include such practices as watershed improvements and manipulation of livestock grazing. Prairie dog control will be carried out by appropriate State and Federal agencies using techniques recommended by them and approved by BLM.

Sport hunting of prairie dogs, as permitted under State law, is recognized as a legitimate recreational use of public lands; hunters may be directed to towns approved for control.

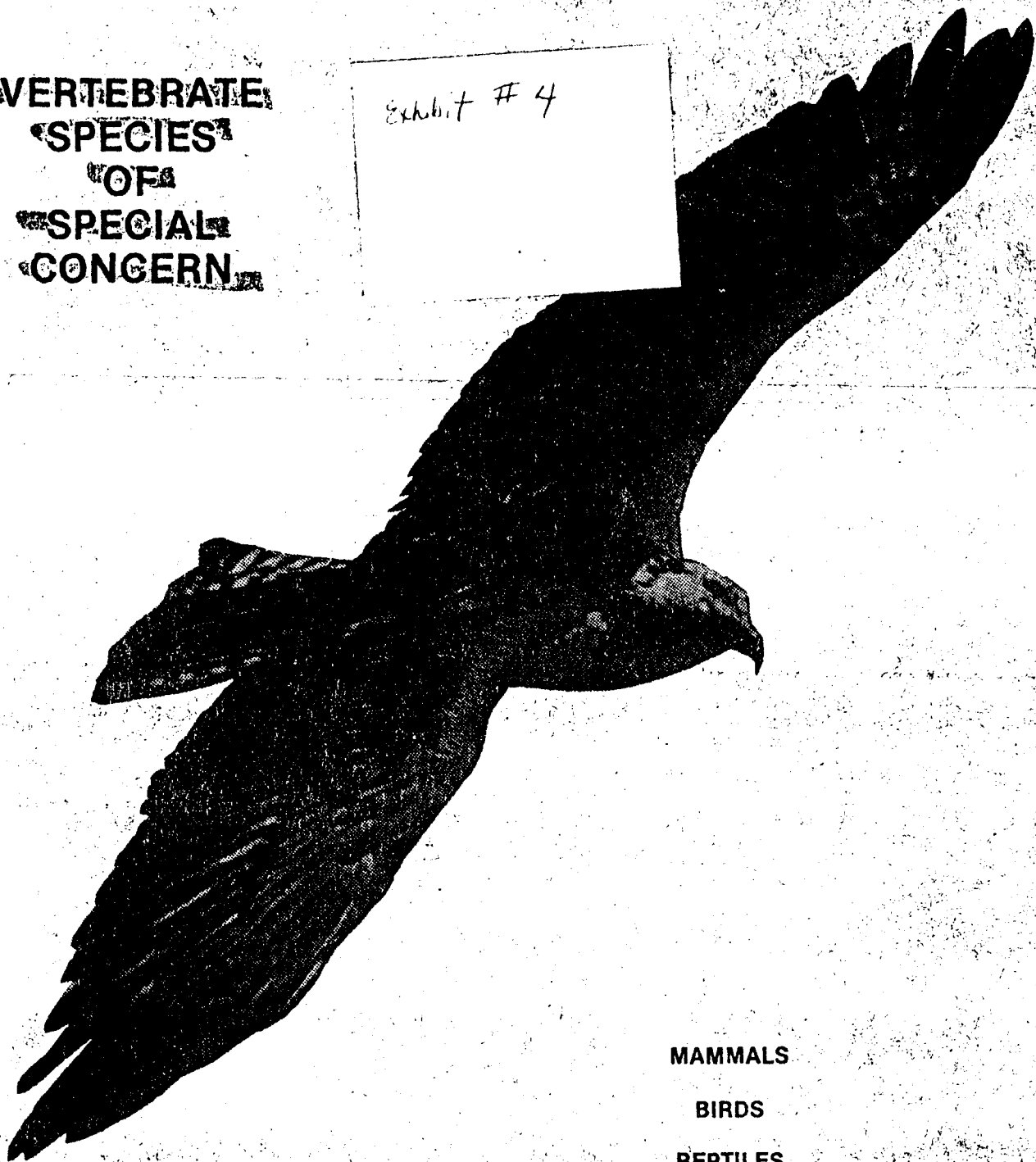
2. Before control plans for any prairie dog towns can be approved by BLM, each town must be intensively inventoried for threatened and endangered species. If such species are present, any proposal for control must clearly demonstrate that it will not jeopardize the continued existence of the species or destroy or adversely modify its habitat.
3. All approved control plans will be fully coordinated with appropriate State and Federal agencies.

In the RMP process, the planning decision will be to designate, based on inventory and other pertinent information, the prairie dog habitat areas which fall into the following categories as described above: (1) public use, (2) maintenance of habitat needed for associated species, (3) maintenance of habitats for threatened or endangered species, (4) habitat areas where control is needed. More specific planning will then be completed when the Habitat Management plan is prepared.

The BLM recognizes that implementing this policy will require close coordination with Federal and State agencies and private landowners. These include, but are not limited to: Montana Department of Fish, Wildlife and Parks, Montana Department of Livestock, United States Fish and Wildlife Service, livestock operators on public lands, and private landowners whose property adjoins public land.

**VERTEBRATE
SPECIES
OF
SPECIAL
CONCERN**

Exhibit # 4



MAMMALS

BIRDS

REPTILES

AMPHIBIANS

FISHES

Prepared by Dennis L. Flath, Nongame Biologist
WILDLIFE DIVISION, MONTANA DEPARTMENT OF FISH,
WILDLIFE AND PARKS - JANUARY, 1981

INTRODUCTION

This 1981 listing of species of special interest or concern incorporates a number of changes from previous issues. For the first time, it was felt necessary to include game as well as nongame species. This was largely due to the fact that several quite rare fish species are legally classified as "game," and also due to a desire to achieve a degree of consistency with other western states in classifying the status of wildlife species.

Changes were made in the format of this booklet to accommodate the reader. County inventories now appear in alphabetical order, rather than by county number sequence. Each species that is known or suspected to occur in a particular county or latilong has its listing accompanied by abbreviated annotations under three different headings. References to potential occurrence and former range have been deleted. Abbreviations used in the inventories are defined below.

Occurrence Definitions

Known: A species whose occurrence has been documented by collection of a specimen or reliable observation provided that such data was acquired since the most recent occurrence of events which could have served to eliminate the subject species.

Susp. (Suspected): A species believed to occur, but which has not been documented by a specimen or reliable observation since the most recent occurrence of events which could have served to eliminate the subject species.

Breed. (Breeding): A bird species which has been documented as having produced eggs or young.

Breed? (Breeding?): A bird species which is suspected of breeding, but for which production of eggs or young has not been documented.

Trans. (Transient): A bird species which has been known to occur in a nonbreeding status. This includes the usually accepted terms of accidental and migrant, as well as winter occurrence.

Status Definitions

End. (Endangered): A species which is in danger of extinction, and which appears on either the United States list of endangered species pursuant to Section 4, of the Endangered Species Act of 1973, as amended; or appears on the Montana list of endangered species pursuant to Section 87-5-107; R.C.M.

Thr. (Threatened): A species which is likely to become an endangered species within the foreseeable future, and which appears on the United States list of threatened species pursuant to Section 4 of the Endangered Species Act of 1973, as amended.

Periph. (Peripheral): A species whose total range within the state is restricted to not more than five counties. Bird species are considered peripheral if known and suspected breeding occurs in not more than five latilongs.

Rare: A species which is seldom encountered during the course of investigations utilizing techniques which could reasonably be expected to reveal the presence of the subject species. Also included is an assessment of expected frequency of occurrence compared to observed frequency of occurrence.

Com. (Common): A species which is frequently encountered during the course of investigations utilizing techniques which could reasonably be expected to reveal the presence of the subject species.

MAMMALS

Twenty-seven species of mammals are considered as being of special interest or concern. General distribution is based primarily on information provided by Burt and Grossenheider (1964), Hoffman and Pattie (1969), Hoffman, Pattie and Bell (1969), Hoffman, Wright and Newby (1969), and Lampe, et al. (1974).

The long-legged bat (*Myotis velox*) has been deleted from these inventories. Field observations have indicated that the species is more widespread than formerly thought (Swenson and Shanks 1979), and is apparently quite abundant in some areas.

INSECTIVORA: Four species are considered:

Merriam's shrew	<i>Sorex merriami</i>
Preble's shrew	<i>Sorex preblei</i>
Dwarf shrew	<i>Sorex nanus</i>
Pygmy shrew	<i>Microsorex hoyi</i>

All species are quite rare, with only *S. preblei* enjoying a wide distribution within the state. New locations for *S. merriami* and *S. preblei* have recently been determined by Dood (1980) and Flath (unpub. data).

Although never recorded in Montana, the Arctic shrew (*Sorex arcticus*) and the short-tailed shrew (*Blarina brevicauda*) could possibly occur in the northeastern portion of the state (Hoffman and Pattie 1968).

CHIROPTERA: Six species are considered:

Keen's bat	<i>Myotis keenii</i>
California bat	<i>Myotis californicus</i>
Fringed bat	<i>Myotis thysanodes</i>
Spotted bat	<i>Euderma maculatum</i>
Big-eared bat	<i>Myotisotis myotis</i>
Long-eared bat	<i>Myotisotis myotis</i>

Also included is an assessment of expected frequency of occurrence compared to observed frequency of occurrence.

Undetermined: A species for which available data and knowledge are insufficient to properly assess the status of the subject species.

Added Concerns Definitions

UN. (Unique): A species which appears on any of the appendices to the Convention on International Trade in Endangered Species, as amended.

Sens. (Sensitive): A species which is judged particularly vulnerable to disturbance or habitat loss due to natural or man-caused factors.

Hab. (Habitat): A species which is judged to be faced with imminent loss, destruction or adverse modification of primary essential habitat.

Un. (Unique): A species which provides essential ecological values to other forms of wildlife, such values generally not being available in the absence of the species.

Red. (Reduced): A species which exists at a population level less than one half the former population level, or whose range is less than one half the former range.

The following discussions, by taxa, pertain only to those forms of wildlife which are considered as being of special interest or concern.

The county and latlong inventories should be considered a means of highlighting certain species for data acquisition and subsequent management efforts. In some cases it is anticipated that additional data accumulation will result in a determination of "secure" status. In other cases, it is hoped that field studies will point the way to necessary and appropriate management actions.

M. californicus has only been recorded from extreme western Montana (Hoffman, Pattie and Bell 1969). However, its taxonomic position as indicated by Findley (1972), its use of habitat types, and its sympatricity with the least bat (*M. leiffii*) (Bogan 1975) all indicate that this species could be more widespread in Montana.

The Spotted bat (*Euderma maculatum*) has only been recorded once for Montana (Nicholson 1950). A review of the habitat requirements of *Euderma* by Snow (1974) and Barbour and Davis (1969) suggest that suitable habitat for this species is present in Montana just south of the only collection site (Billings). A survey of the bat fauna in the Pryors has never been made, yet this is the area most likely to harbor *Euderma*.

Both Hall and Kelson (1959) and Barbour and Davis (1969) have indicated that Keen's bat (*Myotis keenii*) occurs along the eastern boundary of Montana. Hoffman, Pattie and Bell (1969) state there are no records of this species from Montana. Recently, Swenson and Shanks (1979) have documented the occurrence of Keen's bat in eastern Montana.

The Pallid bat has recently been recorded for Montana. A single specimen was mist-netted in south-central Carbon County in 1978 (Shriver and Flath 1980).

There is also a slight possibility that the Red bat (*Lasiurus borealis*) may be found in eastern Montana (Hoffman and Pattie 1968).

RODENTIA: Eight species are considered:

- Hoary marmot *Marmota caligata*
- Black-tailed prairie dog *Cynomys ludovicianus*
- White-tailed prairie dog *Cynomys leucurus*
- Uinta chipmunk *Eutamias umbrinus*
- Great Basin pocket mouse *Perognathus parvus*
- Hispid pocket mouse *Perognathus hispidus*

- Northern box lemming *Synaptomys borealis*
- Meadow jumping mouse *Zapus hudsonius*

Wright (pers. comm.) has indicated that a single specimen of *Synaptomys borealis* was recently taken in Missoula County. Additional data on the occurrence of *Zapus hudsonius* has been provided by Matthews (1979 1980).

CARNIVORA: Eight species are considered:

- Grizzly bear *Ursus arctos*
- Fisher *Martes pennanti*
- Black-footed ferret *Mustela nigripes*
- Wolverine *Gulo gulo*
- Spotted skunk *Spilogale gracilis*
- Swift fox *Vulpes velox*
- Wolf *Canis lupus*
- Lynx *Lynx lynx*

Both the black-footed ferret and the wolf are listed as endangered species, while the grizzly bear is listed as threatened. Currently, there are two ongoing studies of grizzly bears, one each in the Bob Marshall and Yellowstone ecosystems. Ferret and wolf studies have been deferred.

The fisher, wolverine, swift fox and lynx are all classified as furbearers under Montana law. Seasons allow for taking of one each of wolverine and lynx by licensed trappers. Both the fisher and swift fox are completely protected by closed seasons.

Expansion of the wolverine's range in Montana has been documented Newby and Wright (1955) and Newby and McDougal (1964). Hornocker and P (1981) have compiled data on population density and habitat utilization of wolverines in northwestern Montana.

The swift fox has generally been regarded as extinct in Montana (Hoffman, Wright and Newby 1969). McDaniel (pers. comm.), however, has demonstrated an increase in this species in Nebraska and South Dakota. More recently Sharps (pers. comm.) has studied swift foxes in South Dakota and believes the species is increasing. In March, 1978 an adult male swift fox was taken in southwestern Custer County (Moore and Martin 1980). Additional survey and inventory work is needed to ascertain the status of the swift fox in Montana.

ARTIODACTYLA: One species is considered:

Caribou *Rangifer tarandus*

Although currently classified as a game species, the caribou is not hunted and considered extinct in Montana for all practical purposes. The last reliable sighting of caribou in Montana occurred in 1971.

BIRDS

Twenty-nine species of birds have been identified as being of special interest or concern. The Swainson's hawk and mountain bluebird have been deleted. Field observations of both species reveal apparently strong populations and good productivity. It is felt that research and management attention should be focused on other species whose status is less clear, or which are judged to be in greater need of attention. Additions or deletions of other bird species may occur as additional information on their status is compiled.

Distribution and inventory data for birds are based primarily on Skaar (1980), although many individuals throughout the state have provided input.

ANSERIFORMES: One species is considered:

Harlequin duck *Histrionotus histrioticus*

FALCONIFORMES: Nine species are considered:

Goshawk *Accipiter gentilis*
Cooper's hawk *Accipiter cooperii*
Ferruginous hawk *Buteo regalis*
Golden eagle *Aquila ciryaetos*
Bald eagle *Haliaeetus leucocephalus*
Osprey *Pandion haliaetus*
Prairie falcon *Falco mexicanus*
Peregrine falcon *Falco peregrinus*
Pigeon hawk *Falco columbarius*

STRIGIFORMES: One species is considered:

Whooping crane *Grus americana*

CHARADRIIFORMES: Three species are considered:

Mountain plover *Charadrius montanus*
Long-billed curlew *Numenius phaeopus*
Upland sandpiper *Bartramia longicauda*

STRIPIFORMES: Six species are considered:

Pygmy owl *Clauvidium gnoma*
Burrowing owl *Speotyto cunicularia*
Barred owl *Strix varia*
Great gray owl *Strix nebulosa*
Long-eared owl *Asio otus*
Saw-whet owl *Aegolius acadicus*

FIGITIFORMES: One species is considered:

Pileated woodpecker *Dryocopus pileatus*

PASSERIFORMES: Eight species are considered:

Olive-sided flycatcher *Monticola borealis*
Eastern bluebird *Sialia sialis*

Western bluebird

Sialia mexicana

Bobolink

Icterus spurius

Bicknissel

Chondestes ummifer

Clay-colored sparrow

Spizella pallida

Brewer's sparrow

Spizella breweri

Field sparrow

Spizella pusilla

REPTILES

Five species of reptiles have been identified as being of special interest or concern.

Distribution and inventory data are based on Carl (1960), Stebbins (1966), Davis and Weeks (1963) and Brunson (pers. comm.).

TESTUDINATA: Two species are considered:

Snapping turtle

Chelydra serpentina

Spiny softshell

Apalone spiniferus

SQUAMATA (Serpentes): Three species are considered:

Smooth green snake

Ophiodon tereticauda

Milk snake

Lampropeltis triangulum

Plains hognose snake

Heterodon nasicus

All three species of snakes are very rare in Montana. Black and Bragg (1968) indicated that the smooth green snake may occur in northeastern Montana. Distribution of the milk snake needs to be clarified since McEneaney and Jensen (1974) reported the species for the Charles M. Russell National Wildlife Range. This is far outside the range outlined by Davis and Weeks (1963).

AMPHIBIANS

Six species have been identified as being of special interest or

concern. Their distributions are based primarily on Black (1970), Stebbins (1966), Carl (1966) and Brunson (pers. comm.)

CAECILIA: Three species are considered:

Rough-skinned newt

Ambystoma opacum

Coeur d'Alene salamander

Plethodon macrodon

Pacific giant salamander

Desmognathus grandis

One recent observation of *Plethodon* in Sanders County has added this species, even though a specimen is not available.

It is questionable whether or not *Desmognathus* occurs in Montana.

Black (1970) states "There are few records of their occurrence in Montana. Brunson (pers. comm.), however, maintains that this species does not occur in Montana and that published records of its occurrence are mistaken."

Stebbins (1966) states that it occurs in the "Rocky Mountains of Idaho and Montana." His reference to collection sites, however, are all in Idaho.

A neotenic form of the tiger salamander (*Ambystoma tigrinum*) will be encountered on occasion. These are known as "axolotls," which retain external gills throughout the life cycle. Axolotls could be encountered in any body of permanent water which lies near the upper altitudinal limit of the tiger salamander. Axolotls should be considered of special interest or concern, even though the tiger salamander is not. Axolotl distribution is unknown, and does not appear in the county inventories.

SALIENTIA: Three species are considered:

Tailed frog

Ascaphus truei

Dakota toad

Bufo hemouphrys

Wood frog

Rana sylvatica

R. sylvatica has recently been found in Beaverhead County, and Dunlap (1977) has recorded the species for the Big Horn Mountains of Wyoming.

Wolf emerging as non-game controversy

Times News 12-2-82

BY LARRY HENDERSON
Times News Staff Writer

BOISE — Could Idaho get a wolf reintroduction bill to part of its state constitution? There's sufficient support for it, but the bill is still in the early stages of development.

The bill has already emerged as a controversial issue in the non-game and bird species protection effort, sanctioned by the

It is no cause for major alarm because the return of the wolf is based on the premise that Canada is killing fewer of the carnivores, forcing the survivors to spread into new areas. This re-invasion of Idaho will take many years to accomplish and it yet remains to be proven whether Idaho's wilderness areas and big game species can support a "viable" wolf population.

The nongame and bird species protection is a new effort, sanctioned by the

legislature and funded through volunteer donations from the Idaho state income tax form.

"Based on the experience of other states," said Martel Morache, who is the non-game species manager, "and on the fact that Idaho had about 400,000 individual returns, we expected that six percent of the taxpayers would participate at \$2 each. We were right on on the six percent figure but the people of Idaho showed they really cared about non-game

species and gave \$103,000." Morache said if that participation continued, his fund would have about \$91,000 annually to spend on "mitigating" the livelihoods of Idaho's non-hunted animals and passerine birds.

But it is doubtful whether the idea of wolves in the state crossed the minds of the managers and/or the donors at the time of the project's inception.

While wolves are native to the state, they were quickly phased out by white

man when they turned to domestic livestock for their food. Wolves are very susceptible to poison baits and were pretty well erased from Idaho by the turn of the century.

"It probably was 30 or 40 years before anything close to a confirmed wolf sighting was made in this state," Morache said. "But in the last four, five, six years, we (the department) have had something over 300 sightings. We estimate there are four to seven wolves in the state now. All

single animals. The sightings have been wolves ranging from the Canadian line down into the Payette National Forest."

Morache said that Canada has reduced its poisoning program which has led to an increase of wolves in the area. As the surplus increased, the wolves being as "territorially oriented" as they are, the extra numbers have been forced into new areas — in this case Idaho.

*See WOLF on Page D5

Exhibit #5

Morache said the wolf ideas was explained to the Idaho Livestock Association and its members last week in Boise and seemed to be accepted without a lot of dispute.

But before progressing to that possible peril, Morache said major questions must be asked and answered. Toward that end, Idaho is considering participating with a University of Montana student and his request for a masters thesis.

The student will spend a year to 18 months in the vast wilderness network of northern Idaho, conducting a study to see whether Idaho has the foundation for a "viable" wolf population.

"Right now what we have in Idaho are the pioneers," Morache said, "comparing it to the trapper, miner, settler succession that 'civilized' the state. "There would have to be the right combination of habitat and food base to keep that population growing

have cougars throughout the state and they give us a good example. In Big Creek, the biggest tributary to the Middle Fork of the Salmon River is over 200 square miles but there are no more than 12 to 14 cougars using that range. Predators will not allow their own kind to proliferate beyond that (territoriality) range. We think we would see the same thing if a pack society develops."

Morache said there is already a case where "wolves and cows are living together in Bear Valley" without any damage done to the livestock.

"I think that we'd be less than responsible if we failed to give every species a chance to survive — if it is a benefit to humans or to the species itself," Morache said.

and remain in residence, just as man needed certain things to remain.

"The great leveler of all species is how they can do in the winter. The wolves follow big game herds and we believe less than 80 to 100 wolves would not have a big impact on our deer and elk in the wilderness areas. We believe the wolves would follow the big game into these remote wintering areas where they can hunt without interference rather than come out of the mountains into the lower areas where hunters and livestockmen would 'lean' on them," Morache said.

Morache said he doubted that population control by man would be necessary in this case because "any predator population is self limiting by prey numbers and territoriality. We

*Continued from Page D5

While the prospect of wolf packs roving Idaho obviously disconcerts some livestockmen, livestockmen and ranchers said it is far too early to believe that wolves can be reintroduced. He said this was a "long-term" goal of the pack-oriented conservationists and would demand more research and development than the current effort.

"The wolf is a serious problem. We need to know if it is a problem," Morache said. "The fact that carnivores are in the state is a fact. We need to know if they are a problem or if they are a benefit."

He also emphasized that Idaho would not "bring" a wolf population by any means and transplanting them in the state. Any population would grow naturally as its demands were met by the environment.

Editorials

Opinions

The Post-Register

East Idaho's Home Paper

A-4

Idaho Falls, Idaho, Wednesday, December 8, 1962

Post-Register opinion

Add fur bearers to animal list needing attention

There is a question of which end of the spectrum to start from. And having just \$102,000 to work with, it's a difficult choice.

Idaho Fish and Game Department is trying to decide what to do with the funds it has from the income tax check-off for non-game animal management.

Naturally enough, the endangered species or rather exotic types of wildlife come to mind. The one most prominently mentioned by the department to date is the Mountain Blue Bird, the state bird, and the caribou herd of northern Idaho that is running out of numbers.

Also mentioned in a public meeting last week were bald eagles and some other animals that are unfamiliar to most people, animals with names that have to be looked up in the dictionary to find out if they are birds, mammals or reptiles.

But there should also be a pitch for animals that are visible, or at least would be visible if numbers were great enough.

And the reason they are not visible is they are trapped out of existence for their valuable furs, or their habitat has been so encroached upon that they have withdrawn into hiding. And if they are to be left to "manage" for themselves, they too could become extinct.

Maybe people are not only contributing to the fund because of their concern for wildlife, but because they want to occasionally see wildlife.

Wouldn't it be fun to happen onto a raccoon, a wolverine, or a marten, or more often a mink, beaver, weasel, fox, or even an ornery old badger. There is a case for them too — a need for intense management.

Certainly there should be concern for 15 to 20, and still diminishing, caribou in northern Idaho, the only herd left in the continental United States. But how many Idahoans who contribute to the fund are going to benefit or see that herd? Or how many are going to notice, or even recognize if they did see, a white-bill ibis or a crested cormorant?

They would recognize a raccoon or a fox or a beaver. And they would relate to it and enjoy it. But that opportunity is escaping more and more each day with reliability only on the trappers for counts and no management effort from the department for the fur bearers.

Maybe these are the types of animals people have in mind. But they get hardly a mention as candidates to come under the management umbrella.

What happens to
non-game program
expands to include
bald eagles, caribou.

WITNESS STATEMENT

Name Esther D. Ruud Committee On Senate Fish & Game
 Address Malta Date 3/19/83
 Representing Montana Cattlemens Assn. Support _____
 Bill No. HB 377 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We strongly oppose HB 377.

First of all let me define nongame wildlife as any wildlife that is not considered as game or endangered species is considered nongame.

2. We are concerned that the funding in this bill would allow collection and application of biological information for the purpose of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity.
3. We wonder who determines what the optimum carrying capacity will be, and are there any limits?

4. A total ecosystem, also concerns us, when we know that means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life. Not only must they be allowed the optimum carrying capacity of their habitat, but they must be able to maintain that level. In order to maintain that level there will have to be research, census, law enforcement, habitat acquisition and improvement, as well as education. And if it is found to be necessary there will be periodic or total protection of species or populations as well as regulated taking. If they are protected from regular taking it would mean that they could not be hunted, captured, harassed, killed, or even have anyone attempt to do anything like it. We are concerned that our livestock operations could be adversely affected by this.

(continued on next page)

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

3/19/83

I would like to explain to you a little bit more of what nongame wildlife means. It means any wild mammal, which is usually an animal covered with hair that produces milk to nourish their young. Birds, of all kinds which are not considered game birds or endangered species. Reptiles, such as snakes, lizards, turtles, alligators, crocodiles, etc. Amphibians, such as frogs, salamanders and many extinct forms, (extinct forms are forms which are exterminated), and other forms which can live on land or water. Fish, a word we are all familiar with. Mollusk, such as shellfish, clams, snails, etc. Crustacean, means it has crust like shells such as lobsters, crabs, barnacles, (shell fish found attached to rocks and ships), sow-bugs, shrimp, wood lice, water fleas, etc. Or any other wild animal or any part, product, egg, or offspring or the dead body or parts thereof.

(Under Federal Law)

Let me name just a few of the nongame species that you are perhaps more familiar with, they include owls, hawks, raccoons, white-tailed jack rabbit, killdeer, woodpeckers, big brown bat, short-tailed weasel long-tailed weasel, least weasel, wolverine, striped skunk, spotted skunk, badger, black-tailed prairie dog, and many more.

I would like to address the prairie dog towns in Phillips County. According to the Montana Bureau of Land Management Prairie Dog Policy as of April, 1980, it states that although some prairie dog towns may be managed primarily for wildlife and recreational values, others not selected for these purposes will be subject to multiple use management. Where prairie dogs are reported to damage public and adjoining private rangelands the following policy shall apply. One of the three policies states that before control plans for any prairie dog towns can be approved by B.L.M., each town must be intensively inventoried for threatened and endangered species. If such species are present, any proposal for control must clearly demonstrate that prairie dog control will not jeopardize the continued existence of the species or destroy or adversely modify its habitat.

According to a B.L.M. study, June 1982, Phillips County Resource Area had at least 173 prairie dog towns covering about 11,555 acres. On public lands alone, they knew of 96 prairie dog towns covering approximately 8,275 acres within 43 allotments. This study does not include what may be on the Charles M. Russell National Wildlife Refuge or the Fort Belknap Indian Reservation. It does however include a study of approximately 1.1 million acres of public lands intermingled with approximately 2.2 million acres of private and state lands. Some permittees with large portions (up to 69%) of their allotments are covered by these towns. These permittees, and neighboring allotments, are bearing the brunt of present damage and will be the first to bear the brunt of possible prairie dog expansion, their report states.

The black-tailed prairie dog according to the BLM report was first identified as a range pest in 1924. However, no real intensive action took place to control prairie dogs until 1931. Strychnine oats were spread over 170,000 acres of rangeland from 1931 to 1933. By 1933 there were few prairie dogs left in the county. Poisoning continued on the few remaining towns until 1939, when it was felt that prairie dogs had been eliminated from Phillips County. However, here we are in 1982 with at least approximately 8,274 prairie dogs on public lands alone. According to BLM estimates, if no control is implemented on these prairie dogs, by September 1, 1996, we will have 298,382 (approx.) acres of land occupied by

prairie dogs on public lands alone, plus those on private land, and any that may be on the Charles M. Russell National Wildlife Refuge, and the Fort Belknap Indian Reservation.

If you have ever seen a prairie dog town, you know that the vegetation is almost completely denuded by the actions of the prairie dogs. The aboveground portions of the plants are eaten or clipped until virtually all vegetation is gone. The prairie dogs then dig up the root systems of these plants. The topsoil is no longer stable and soon disappears as a result of wind and water erosion. The resulting soils support very little if any vegetation. Therefore, not only are livestock to be considered when it comes to an over abundance of prairie dogs, but also to be considered is the significant impact it can have on big game, game birds, waterfowl, fisheries, recreation, social and economic conditions, as well as soil erosion.

According to the B.L.M. figures in the Phillips Resource Area, the value of an AUM lost is \$13.42, (in the Butte area it is valued at \$16.95, per AUM lost), and with no control of prairie dogs, in approximately 15 years, 179,865 acres of good to excellent range conditions could deteriorate to poor to fair condition with a resultant loss of 188,700 AUMS. If you take 188,700 AUMS times \$13.42, you will see that Phillips County could have a loss of \$2,532,354.00. Just think of what that loss could do to a number of individuals, the county tax revenues, state taxes, federal government, etc.

Also no control of the prairie dog towns could provide approximately 298,382 acres of potential habitat for the black-footed ferret in approximately 15 years on public lands in the Phillips Resource Area. Being contiguous to the Charles M. Russell National Wildlife Refuge, the resource area would provide additional habitat for the success of any proposed black-footed ferret reintroductions.

In order to protect these nongame species, a voluntary check-off of your Montana tax refund can be made on your Montana income tax form. We trust that our Montana Legislators realize the economic affect the funding of these nongame species could have on not only livestock producers, but all agricultural producers, as well as the adverse affect it could have on our State's economy, due to loss of land for agricultural purposes. We are sure that our Legislators also realize that if they allow such a check-off, they will be opening the door to other special interest groups. For instance Arkansas has a check off fund to rebuild a football stadium. Idaho an Olympic fund, and Oregon a continuing arts fund. Personally, I wonder why someone didn't propose a voluntary check-off for our Montana Highways.

The Montana Cattlemens Association urges this Committee to vote a do not pass on HB 377.



WIFE Women Involved in Farm Economics

NAME JO BRUNNER BILL NO. HB 377
 ADDRESS 553 3rd ST HELENA DATE March 19/1983
 REPRESENT WOMEN INVOLVED IN FARM ECONOMICS
 SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS JO BRUNNER AND I REPRESENT THE OVER 400 MEMBER FAMILIES OF OUR ORGANIZATION. I REPRESENT ALSO, TODAY OVER 300 BUSINESSES, ORGANIZATIONS AND INDIVIDUALS WHO MAKE UP THE MONTANA AGRICULTURE BUSINESS ORGANIZATION. I HAVE BEEN REQUESTED TO ENTER THIS TESTIMONY ALSO FOR THE MONTANA GRAIN GROWERS ASSOCIATION, FOR THE AGRICULTURE PRESERVATION ASSOCIATION, FOR THE MONTANA FARM BUREAU, *The Montana Wildlife Farm Organization, The Park County Legislative Association and the Swedgen Co. Association by their respective leaders.*

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, WOMEN INVOLVED IN FARM ECONOMICS THROUGH EXTENSIVE STUDY OF THIS SUBJECT FOR SEVERAL YEARS HAS THE UNANIMOUS APPROVAL OF POLICY TO OPPOSE NOT ONLY THE BILL WE ARE DISCUSSING HERE TODAY, BUT THE ORIGINAL LAW ITSELF.

IT WILL BE STATE THAT WE DO NOT HAVE THE RIGHT TO TELL OTHERS WHAT THEY MAY OR MAY NOT DO WITH THEIR MONEY. WE ARE IN COMPLETE AGREEMENT WITH THAT! IF AN INDIVIDUAL WANTS TO CONTRIBUTE HIS OR HER REFUND TO A CAUSE WE ARE AGREEABLE WITH THAT RIGHT----AS LONG AS THAT CAUSE DOES NOT TAKE AWAY OUR RIGHTS!!!!JUST AS THAT PERSON DECIDES HIS RIGHTS, SO SHOULD WE!!!

CERTAINLY WE ARE PROTESTING A LAW THAT HAS BEEN ON OUR BOOKS FOR MORE THAN 10 YEARS AND HAS NEVER BEEN ANABLED?? WHY NOT??? ATTEMPTS ARE MADE EVERY LEGISLATIVE SESSION TO FUND THAT LAW! EVERY LEGISLATIVE SESSION MORE AND MORE MONEY IS FUNNELLED INTO MONTANA BY THE AUDOBON SOCIETY, WILDLIFE PROTECTORS, SIERRA CLUB, WHOEVER IT IS THAT SUPPORTS THE EXTENSIVE MEDIA PROGRAMS ABOUT THE LITTLE BLUEBIRD BOXES AND THE CUTE LITTLE CARTOON FOXES, AND SKUNKS AND COYOTES; **THE EXTENSIVE PUBLICITY** IN THE NEWSPAPERS ABOUT THE BENEFICIAL VOLUNTEER PROGRAMS UNDERWAY; THE WALL TO WALL LOBBYING EFFORTS: AND WE HAVE NOT YET PROVIDED THE ENABLING FUNDS. WE BELIEVE THERE IS A REASON FOR THIS----IT IS NOT A GOOD LAW AND THE PEOPLE OF MONTANA RECOGNIZE THAT IT IS NOT A LAW BENEFICIAL TO US. WE AGREE WITH MR. FABREGA, THIS LAW SHOULD BE ELIMINATED.

"Hell has no fury like a woman scorned"



WIFE Women Involved In Farm Economics

THE CITIZENS, THE BUSINESSES, THE ORGANIZATIONS I REPRESENT HERE TODAY ARE THE PEOPLE WHO TILL THE SOIL, WHO SUPPLY THE NEEDS OF AGRICULTURE, WHO BELONG TO THE ORGANIZATIONS WHO RAISE THE FOOD WE EAT; WHOSE DOLLAR IS ESTIMATED TO TURN OVER 7 TIMES IN OUR STATES ECONOMY AND WE ARE SPENDING OUR OWN MONEY AND OUR OWN TIME TO PROTEST THE ENABLING OF THIS LAW. WE ARE NOT RELYING ON DIRECTION FROM NEW YORK, OR DENVER TO TELL US WHAT TO SAY, OR TO PROVIDE OUR SALARIES, AND WE DO NOT INTEND TO ENROACH ON THE FREEDOM OR THE RIGHTS OF OTHERS. WE ARE WITHOUT A DOUBT THE MOST CONCERNED ENVIRONMENTALISTS SITTING IN THIS ROOM TODAY, BECAUSE WE DO OUR PROTECTING WILLINGLY AND WITHOUT DESIGNATION OF PROTECTED OR ENDANGERED STATUS. WE ALSO USE COMMON SENSE IN OUR MANAGEMENT PROGRAMS. WE BELIEVE THAT WE HAVE THE RIGHT TO MANAGE SPECIES THAT THREATEN OUR LIVELIHOODS, THAT CAUSE US EXTENSIVE DAMAGE TO OUR CROPS AND TO OUR LIVESTOCK.

WE HEAR THE ARGUMENT THAT OTHER STATES HAVE THIS LAW AND ITS NOT CAUSING ANY PROBLEMS. SINCE WHEN DOES MONTANA HAVE TO HAVE A LAW BECAUSE OTHER STATES DO? PERHAPS WE SHOULD ELIMINATE OUR COAL SEVERANCE TAX BECAUSE MOST OF THE OTHER STATES DONT HAVE ONE?? PERHAPS WE SHOULD GIVE SOME OF THE SAME STATES WHO DO HAVE THIS PROGRAM, OUR WATER SIMPLY BECAUSE THEY WANT IT. WHEN I RAISED MY FAMILY, I DIDNT DO IT ON THE THEORY THAT WHAT WAS GOOD FOR THE NEIGHBOR FAMILY WAS GOOD FOR MINE AND A VERY POOR REASON WAS BECAUSE ALL THE OTHER KIDS ARE DOING IT.

THE IMPLEMENTATION OF THIS PROGRAM IS NOT INSTANTANEOUS! COLORADO HAS HAD SUCH LEGISLATION FOR SEVERAL YEARS. IN A 1981 ENDANGERED SPECIES AND NONGAME COMMITTEE REPORT JOHN TORRES OF THE COLORADO WILDLIFE COMMISSION STATES THAT CLOSELY RELATED ASPECT OF THE NONGAME PROGRAM IS THE RELATIVELY UNEXPLORED AREA OF URBAN WILDLIFE. AND---- ON THE 18th DAY OF NOVEMBER, 1982 THE COLORADO LAW WITH THE STATUTORY REFERENCE 33-1-108, NO. 1000, WAS SIGNED INTO BEING: BATS AND RATTLESNAKES WITHIN MUNICIPALITIES MAY BE KILLED WHEN CREATING A NUISANCE AND CAUSING DAMAGE TO PROPERTY! INCIDENTALLY, YOU WILL FIND IN YOUR COPY OF THE FEDERAL LAW THE LANGUAGE THAT MANDATES URBAN MANAGEMENT.

IN THE SAME COMMITTEE REPORT, FRED HOSEA OF WASHINGTON STATE SAYS -QUOTE- IN 1980 WE TOTALLY REVISED OUR STATE STATUTES. THIS YEAR--1981-- WE EXPECT TO UPDATE GAME COMMISSION REGULATIONS AS NECESSARY TO MODERNIZE AND COMPLY WITH THE REVISED CODE. NEW STRENGTH WAS ADDED TO PROTECT WILDLIFE LAWS. FOR EXAMPLE, ALL BIRDS NOT CLASSIFIED AS GAME BIRDS OR

"Hell has no fury like a woman scorned"



WIFE Women Involved In Farm Economics

PREDATORY BIRDS ARE NOW PROTECTED WILDLIFE. THE CATEGORY AND THESE ARE HIS QUOTES, THE CATEGORY "PROTECTED WILDLIFE" ALSO INCLUDES THREE BIG GAME SPECIES, THREE FURBEARRERS, TREE SQUIRRELS, SOME GROUND SQUIRRELS, HARMOTS TWO SPECIES OF RABBIT AND MOST TURTLES.

NO, THIS DOES NOT COME THE FIRST YEAR THE PROGRAMS ARE IN BEING.

MR. LARRY COPENHAVER OF THE UPPER MISSOURI BREAKS AUDOBON SOCIETY SAYS IN A LETTER TO A SENATOR THIS SESSION, THAT NONGAME WILDLIFE IS ONE OF MONTANA'S MOST VALUABLE RESOURCES. AGRICULTURE ACKNOWLEDGES THAT OUR WILDLIFE POPULATION IS AN ASSET. WE WOULD CERTAINLY APPRECIATE ANY FACTS AND FIGURES SHOWING JUST HOW MUCH REVENUE IS ACTUALLY BROUGHT INTO THE STATE BY THIS RESOURCE THAT IT SHOULD TAKE PRECEDENCE OVER THE TOP MONTANA INDUSTRY. MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, WE DO NOT BELIEVE IN THE INDISCRIMINATE ERADICATION OF ANY SPECIES. BUT WE DO NOT BELIEVE THAT DECISIONS TO MANAGE SPECIES SHOULD BE LEFT UP TO THOSE WHO ACKNOWLEDGE VOCALLY THE IMPORTANCE OF AGRICULTURE TO THE ECONOMY OF THE STATE BUT DO NOT, IN APPLICATION, BELIEVE IN OUR RIGHT TO SUPPORT OURSELVES IN A MANNER NECESSARY TO OUR OPERATIONS. WHEN A RATTLER MUST BE PROVEN DANGEROUS TO THE WELLBEING OF AN INDIVIDUAL BEFORE IT CAN BE DESTROYED; WHEN A RANCHER GETS SUED FOR SHOOTING A BEAR SIMPLY BECAUSE IT MIGHT HAVE KILLED HIM OR HIS WIFE WHILE ATTACKING THEM; WHEN ONLY 40% OF THE SHEEP KILLED IN MONTANA WERE KILLED BY COYOTES AND THUS IS NOT ENOUGH OF A PROBLEM TO RISK STRESSING THE GRIZZLY; WHEN THE EFFORT IS MADE TO PROHIBIT THE POISONING OF GOPHERS UNTIL AFTER JULY 15 SO THAT THE BEARS MIGHT NOT EAT ENOUGH GOPHERS TO KILL THEM---DESPITE THE FACT THAT THIS HAS NEVER BEEN PROVEN--and despite the FACT THAT CROPS ARE IN A RIPENING STAGE AND THE GREATER HARM WOULD HAVE BEEN ACCOMPLISHED BY THEN; WHEN AN EFFORT WAS MADE TO STOP EFFECTIVE METHODS TO POISONING GOPHERS NEAR A BODY OF WATER, WHICH WOULD HAVE ELIMINATED THE 80,000 ACRE IRRIGATION DISTRICT I LIVE ON WITHIN A FEW YEARS, YOU MAY UNDERSTAND OUR CONCERN WITH THIS LAW AND ITS IMPLEMENTATION.

WE GET TOLD QUITE OFTEN THAT WE ARE BORROWING TROUBLE; THAT WE REALLY HAVE NO LEGIMATE CONCERNS AND THAT THE LAW WILL NOT BE HARMFUL TO AGRICULTURE. WE SUGGEST THAT THE PROPONENTS OF THIS LAW DO NOT KNOW BUT WHAT THEIR FEARS ARE PURE SPECULATION. THEY HAVE NO CONCRETE PROOF THAT THESE SPECIES WILL BECOME EXTINCT OR EVEN IN NEED OF MANAGING.

WE BELIEVE THAT AGRICULTURE IS FORCED OVER AND OVER AGAIN TO PROTECT OUR-



WIFE Women Involved In Farm Economics

SELVES AGAINST WILD GUESSES, AGSINST PURE SPECULAT ION, AND
IMPROBABLE THEORIES. WE ARE TIRED OF IT, WE CANNOT WELL AFFORD
^{BUT} IT; WE WILL CONTINUE TO OPPOSE ANY SUCH IMPLEMENTATION OF ANY
~~IMPLEMENTATION~~ THAT WILL QUITE EFFECTIVELY MANAGE OUR LANDS THROUGH MANAGMENT
OF SPECIES OF ANIMALS, FISH, BIRDS, WHATEVER. PERHAPS WHEN THE PROPONENTS
OF SUCH EFFORTS CAN PROVE TO US THAT THEIR FEARS ARE JUSTIFIED, WHEN THEY
HAVE PROOF THAT SUCH PROBLEMS DO EXIST OR WILL EXIST, AND WHEN THEY CAN
SHOW US, BY THE SAME CRITERIA THAT THEY REQUEST OF US, THAT THIS LAW WILL
NOT NOW OR IN THE FUTURE BE HARMFUL TO US AND TO OUR GENERATIONS TO FOLLOW
US ON THE LAND, OR WHEN THEY ARE WILLING TO ALLOW US THE RIGHT TO DO JUST
WHAT THEY REQUEST HERE TODAY, THE RIGHT TO DO AS THEY PLEASE WITH THEIR
POSSESSIONS, THEN WE WILL BE ABLE TO GET TOGETHER AND WORK OUT OUR
DIFFERENCES.

THANK YOU.

SOME FACTS ABOUT THE NON-GAME CHECK OFF PROTECTION PROGRAM.
AND THE EXISTING LAW.

FACT: MCA 87-5-105---LAW ALLOWS THE FWP DEPARTMENT TO SET UP OWN RULES AND REGULATIONS DESIGNATING MANAGEMENT OF SPECIES. SPECIES LIST IS SO EXTENSIVE THAT THE LAND OWNERS WOULD HAVE NO SAY IN ANY DECISION ON DESIGNATION OF SPECIES TO BE MANAGED.

FACT: FWP NEED CHECK WITH LEGISLATURE ONLY UPON CHANGING STATUS OF SPECIES--EXAMPLE: PROTECTED TO ENDANGERED. 87-5-105

FACT: MCA 87-5-103. SPECIES DO NOT HAVE TO BE ENDANGERED IN MONTANA TO BE MANAGED AND PROTECTED HERE. THEY CAN BE DESIGNATED AS MANAGED AND PROTECTED IN MONTANA AT THE DISCRETION OF FWP, EVEN IF WE HAVE A LARGE POPULATION OF THE SPECIES.

FACT: MCA 87-5-112-- ALLOWS THE ENTRY INTO THE STATE OF A SPECIES OR SUBSPECIES NOT NATIVE TO MONTANA, IF THAT SPECIES OR SUBSPECIES IS DEEMED IN DANGER OF LOWERED POPULATION.(EXAMPLE---RACCOON IS NOT NATIVE TO MONTANA, BUT IS ON THE LIST OF ANIMALS DESIGNATED AS NON-GAME.)

FACT: MCA- 87-5-102---ALLOWS THE PERIODIC OR TOTAL PROTECTION OF SPECIES OR POPULATION WHEN OR WHERE IT IS DEEMED APPROPRIATE (REFER TO MCA 87-5-105) WHICH MEANS THAT TOTAL MANAGEMENT OF ALL SPECIES IN THAT ECOSYSTEM!

FACT: FEDERAL LAW SUPERCEDES STATE LAW, UNLESS DESIGNATED IN THE FED. LAW!
THIS FEDERAL LAW DOES NOT DESIGNATE THUS! PAGE 5, OF THE FEDERAL LAW, (top of page) SPELLS OUT THE DEFINITION OF MANAGEMENT BY THE FEDS:"ANY FISH AND WILDLIFE WITHIN THE STATE NOT TAKEN FOR FOOD OR SPORT" AND ON LINES 6&7,"ANYTHING NOT CONSIDERED ENDANGERED SHOULD BE DEEMED NONGAME FISH AND WILDLIFE"!

FACT: FEDERAL LAW, PAGE 9, MONTANA CANNOT GET THE ESTIMATED \$150,000 OR THE STATES PORTION OF THE ALLOCATED FEDERAL MONEY FOR SUCH PROGRAMS UNLESS!!!!!! WE SUBMIT A PLAN FOR MANAGEMENT, NOT FEDERAL MANAGEMENT BUT STATE MANAGEMENT, AND THAT CAN BE EITHER APPROVED OR DISAPPROVED BY THE FEDS.

FACT: BACK TO PAGE 6, LINES 7 through 15, YOU WILL FIND THE PLAN STANDARDS WHICH INCLUDES THE DESIGNATED STATE AGENCY VESTED WITH THE OVERALL RESPONSIBITY FOR THE DEVELOPMENT OF THE MANAGEMENT PROGRAM. IN MONTANA, THE FISH, WILDLIFE AND PARK DIRECTOR!!!

FACT: THE COMBINATION OF THE FACTS ON THIS SHEET ALLOWS THE DIRECTOR OF FWP TO DESIGNATE ANY SPECIES UNDER THE FED DESIGNATION AS MANAGEABLE AND TO DO SO WITHOUT CONSULTING WITH ANYOTHER AGENCY OR THE LEGISLATURE!!!!!!

95TH CONGRESS
1ST SESSION

H. R. 10255

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 1977

Mr. FORSYTHE (for himself, Mr. LEGGETT, Mr. MURPHY of New York, Mr. DINGELL, Mr. BOWEN, Mr. YOUNG of Alaska, Mr. OBERSTAR, Mr. ANDERSON of California, Mr. BAUMAN, Mr. DE LA GARZA, Mr. BREAUX, Mr. EMERY, Mr. STUDDS, Mr. BONKER, Mr. DORNAN, Mr. MCCOIN, Mr. TRIBLE, Mr. HUGHES, and Mr. AKAKA) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To assist the States in developing comprehensive fish and wildlife resource management plans and in implementing such plans with respect to nongame fish and wildlife.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 *That this Act may be cited as the "Nongame Fish and Wild-*
4 *life Conservation Act of 1978".*

5 SEC. 2. DECLARATION OF FINDINGS AND PURPOSE.

6 (a) FINDINGS.—The Congress finds and declares the
7 following:

8 (1) Fish and wildlife are of ecological, economic,

1 educational, esthetic, historical, recreational, and scien-
2 tific value to the Nation and its people.

3 (2) The improved conservation of fish and wildlife,
4 particularly nongame fish and wildlife, would assist in
5 maintaining a diversity of fish and wildlife and assuring
6 a productive and more esthetically pleasing environment
7 for all citizens.

8 (3) Many citizens, particularly those residing in
9 urban areas, have insufficient opportunity to participate
10 in recreational and other programs designed to foster
11 human interaction with nongame fish and wildlife and
12 thereby are unable to have a greater appreciation and
13 awareness of the environment.

14 (4) Existing State conservation programs for non-
15 game fish and wildlife have been supported largely on
16 the basis of hunting and fishing license revenues and
17 excise taxes on certain hunting and fishing equipment,
18 and these traditional financing mechanisms are neither
19 adequate nor fully appropriate to meet the conservation
20 needs of nongame fish and wildlife.

21 (5) Each State should be encouraged to develop,
22 expand, and maintain, in urban and nonurban areas, and
23 in consultation with the local governments concerned, a
24 management plan for the conservation of fish and wild-

1 life, particularly those species which are indigenous to
2 the State.

3 (b) PURPOSE.—It is the purpose of this Act—

4 (1) to provide financial and technical assistance to
5 the States to enable them to develop comprehensive fish
6 and wildlife resource management plans that are con-
7 sistent with this Act;

8 (2) to provide financial and technical assistance to
9 the States to enable them to implement such manage-
10 ment plans with respect to nongame fish and wildlife;
11 and

12 (3) to direct all Federal departments and agencies
13 (A) to assist the States to develop such management
14 plans; and (B) to the maximum extent practicable, to
15 administer programs under their jurisdiction in a manner
16 consistent with approved management plans.

17 SEC. 3. DEFINITIONS.

18 As used in this Act—

19 (1) The terms “conserve”, “conserving”, and
20 “conservation” mean to use such methods and proce-
21 dures which are necessary to ensure, to the extent practi-
22 cable and desirable, the health and productivity of fish
23 and wildlife and their habitats for the educational,
24 esthetic, historical, recreational, and scientific enrich-

1 ment of the public. Such methods and procedures may
2 include any activity associated with scientific resource
3 management, such as research, census, monitoring, law
4 enforcement, habitat acquisition, development and main-
5 tenance, information and education, extension services,
6 propagation, live trapping, and transplantation.

7 (2) The term "designated State agency" means the
8 commission, department, division or other agency of a
9 State which has primary legal authority for the con-
10 servation of fish and wildlife. If any State has placed
11 such authority in more than one agency, such term
12 means each such agency acting with respect to its as-
13 signed responsibilities.

14 (3) The term "fish and wildlife" means any wild
15 vertebrate animal which is in an unconfined state and
16 is valued for cultural, scientific, educational, esthetic, or
17 recreational benefits by the public.

18 (4) The term "management plan" means a compre-
19 hensive fish and wildlife resource management plan re-
20 ferred to in section 4.

21 (5) The term "~~nongame fish and wildlife~~" means
22 any fish and wildlife which—

23 (A) is not ordinarily taken for sport or food,
24 except that if under applicable State law, any such

1 fish and wildlife may be taken for sport or food in
 2 some, but not all, areas of the State, any of such
 3 fish and wildlife within any area of the State in
 4 which such taking is not permitted shall be deemed
 5 to be nongame fish and wildlife;

6 (B) is not listed as an endangered species or
 7 threatened species under the Endangered Species
 8 Act of 1973 (16 U.S.C. 1531-1543); and

*Same
 ES are
 34500 v.
 nongame*

9 (C) is not a marine mammal within the mean-
 10 ing of section 3 (5) of the Marine Mammal Protec-
 11 tion Act of 1972 (16 U.S.C. 1362 (5)).

12 Such term does not include any domesticated animal
 13 which has reverted to a feral existence.

14 (6) The term "Secretary" means the Secretary
 15 of the Interior.

16 (7) The term "State" means any of the several
 17 States, the District of Columbia, the Commonwealth of
 18 Puerto Rico, American Samoa, the Virgin Islands,
 19 Guam, the Commonwealth of the Northern Mariana
 20 Islands, and the Trust Territory of the Pacific Islands.

21 **SEC. 4. STANDARDS FOR COMPREHENSIVE FISH AND**
 22 **WILDLIFE RESOURCE MANAGEMENT PLANS.**

23 (a) IN GENERAL.—The Secretary may make grants
 24 under section 5 to any State for the purpose of assisting

1 such State to develop a comprehensive fish and wildlife
2 resource management plan which is consistent with the
3 plan standards referred to in subsection (b).

4 (b) PLAN STANDARDS.—The Secretary shall prescribe
5 by regulation such standards as the Secretary deems neces-
6 sary and appropriate to provide that management plans de-
7 veloped by the States under this Act result in the conserva-
8 tion of fish and wildlife and their habitats in a systematic
9 and comprehensive manner. The plan standards prescribed
10 under this subsection shall set forth the format in which the
11 plans shall be prepared and shall include, but not be limited
12 to, standards requiring—

13 (1) the vesting in the designated State agency of
14 the overall responsibility for the development of the
15 management plan;

16 (2) the identification of fish and wildlife within the
17 State;

18 (3) the determination of the range and distribution
19 of the populations of significant fish and wildlife identi-
20 fied under paragraph (2) ;

21 (4) the determination of the extent, location, and
22 carrying capacity of significant fish and wildlife habitats;

23 (5) the determination of those actions which must
24 be taken to conserve the fish and wildlife populations
25 and habitats determined under paragraphs (3) and (4),

1 and the estimated time and cost required to effect each
2 such action;

3 (6) the determination of priorities for implementing
4 the conservation actions determined under paragraph
5 (5);

6 (7) the monitoring, on a continuing basis, of the
7 fish and wildlife identified under paragraph (2), and the
8 effectiveness of the conservation actions determined under
9 paragraph (5);

10 (8) that plans be for a period of not less than
11 ~~5~~ years and be based upon projections of the desires
12 and needs of the public for a period of not less than
13 15 years;

14 (9) that plans be updated at intervals of not more
15 than 3 years;

16 (10) that the public be provided reasonable oppor-
17 tunity to make its views known, and considered during
18 the development, revision, and implementation of the
19 plan; and

20 (11) the designated State agency to consult, as
21 appropriate, with local and regional governments in
22 the State during the development, revision, and imple-
23 mentation of the plan.

24 All identifications and determinations required to be made
25 under management plans pursuant to paragraphs (2), (3),

1 (4), (5), and (6) shall be made on the basis of the best
2 scientific evidence available at the time when made.

3 (c) REGULATIONS.—Interim regulations to carry out
4 subsection (b) shall be issued by the Secretary as soon as
5 practicable after the date of the enactment of this Act, but
6 not later than 6 months after such date; except that before
7 proposing such interim regulations, the Secretary shall consult
8 with the States and give them opportunity to submit com-
9 ments with respect to the content of the regulations. Final
10 regulations to carry out subsection (b) shall be issued by
11 the Secretary not later than 18 months after such date of
12 enactment.

13 SEC. 5. GRANTS FOR THE DEVELOPMENT OF MANAGE-
14 MENT PLANS.

15 (a) IN GENERAL.—Any State may apply to the Secre-
16 tary for annual grants under this section to assist the State
17 in developing a management plan.

18 (b) APPLICATIONS.—Application for grants under this
19 section shall be made in such form and manner as the Secre-
20 tary shall by regulation prescribe and shall contain such
21 information as is reasonably necessary to enable the Secre-
22 tary to determine whether the State meets the eligibility
23 requirements set forth in subsection (c).

24 (c) ELIGIBILITY.—No State is eligible for any grant
25 under this section unless the State—

(1) gives such assurances as are satisfactory to the Secretary that the State will develop a management plan which is consistent with the standards prescribed under section 4; and

(2) submits to the Secretary a preliminary estimate of the cost, and of the time required, to develop the plan.

(d) GRANTS.—Subject to section 8, the Secretary may make an annual grant to each State which the Secretary finds to be eligible under subsection (c). Any grant made under this section shall be subject to such terms and conditions as the Secretary may impose under section 9.

SEC. 6. PLAN APPROVAL.

(a) DETERMINATION BY SECRETARY.—(1) Any State which has developed a management plan may apply to the Secretary for approval of the management plan.

(2) Application for the approval of a management plan shall be made in such form and manner as the Secretary shall by regulation prescribe and shall contain such information as is necessary to enable the Secretary to determine whether the management plan proposed by the State meets the plan standards prescribed by the Secretary under section 4.

(3) Upon receipt of an application for approval, the Secretary shall—

(9)

1 (A) make copies of the proposed management plan
 2 available for public inspection at such offices of the De-
 3 partment of the Interior as he deems appropriate;

4 (B) cause to be published in the Federal Register
 5 a notice which—

6 (i) states that application for approval of the
 7 management plan has been made,

8 (ii) lists those offices of the Department of the
 9 Interior at which copies of the proposed manage-
 10 ment plan are available for public inspection, and

11 (iii) invites the submission, within 90 days
 12 after the date of the notice, of written comment by
 13 the public on the proposed management plan.

14 (4) If the Secretary determines, after taking into ac-
 15 count any public comment which may have been submitted
 16 under paragraph (3) (B) (iii), that any proposed manage-
 17 ment plan—

18 (A) meets the plan standards prescribed under sec-
 19 tion 4, the Secretary shall designate the proposed plan
 20 as an approved management plan; or

21 ~~(B) does not meet such standards, the Secretary~~
 22 ~~shall, within 120 days after the day on which the ap-~~
 23 ~~plication for approval is received, give the State con-~~
 24 ~~cerned a written statement of the reasons why such~~

12

- 87-5-402. Posting of notice and additional provisions.
- 87-5-403. Sun River game preserve.
- 87-5-404. Flathead Lake bird preserve.
- 87-5-405. Teton-Spring Creek bird preserve — special archery season.
- 87-5-406. Gates of the Mountains game preserve.

Part 5 — Stream Protection

- 87-5-501. State policy.
- 87-5-502. Notice of construction or hydraulic projects.
- 87-5-503. Investigation of construction plans.
- 87-5-504. Notice of department findings and alternative plans.
- 87-5-505. Arbitration of disputes.
- 87-5-506. Vested water rights preserved and emergency actions excepted.
- 87-5-507. Irrigation projects excepted.
- 87-5-508. Federal actions injuring fish and wildlife.
- 87-5-509. Penalty and restoration.

Part 1

Nongame and Endangered Species

87-5-101. Short title. This part shall be known and may be cited as "The Nongame and Endangered Species Conservation Act".

History: En. Sec. 1, Ch. 461, L. 1973; R.C.M. 1947, 26-1801.

87-5-102. Definitions. As used in this part, the following definitions apply:

(1) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

(2) "Endangered species" means any species or subspecies of wildlife actively threatened with extinction due to any of the following factors:

(a) the destruction, drastic modification, or severe curtailment of its habitat;

(b) its overutilization for scientific, commercial, or sporting purposes;

(c) the effect on it of disease, pollution, or predation;

(d) other natural or man-made factors affecting its prospects of survival or recruitment within the state; or

(e) any combination of the foregoing factors.

(3) "Management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern scientific resource program including but not limited to research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

(4) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this state. Animals designated by statute or

regulation of this state as predatory in nature are not classified as nongame wildlife for purposes of this part.

(5) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(6) "Person" means any individual, firm, corporation, association, or partnership.

(7) "Take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

(8) "Wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg, or offspring or the dead body or parts thereof.

History: En. Sec. 2, Ch. 461, L. 1973; amd. Sec. 12, Ch. 417, L. 1977; R.C.M. 1947, 26-1802(3), (part (4)), (5) thru (10).

87-5-103. Legislative policy. The legislature finds and declares all of the following:

(1) that it is the policy of this state to manage certain nongame wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as members of ecosystems;

(2) that species or subspecies of wildlife indigenous to this state which may be found to be endangered within the state should be protected in order to maintain and to the extent possible enhance their numbers;

(3) that the state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered elsewhere by prohibiting the taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment within this state of species or subspecies of wildlife unless such actions will assist in preserving or propagating the species or subspecies.

History: En. Sec. 3, Ch. 461, L. 1973; R.C.M. 1947, 26-1803.

87-5-104. Investigations by department. The department shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. The department shall conduct ongoing investigations of nongame wildlife.

History: En. Sec. 4, Ch. 461, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1804(part).

87-5-105. Regulations to manage nongame wildlife. (1) On the basis of the determinations made pursuant to 87-5-104, the department shall issue management regulations. Such regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to 87-5-104 through 87-5-106, giving their common and scientific names by species and subspecies. The department may from time to time amend such regulations on the approval of the legislature by adding or deleting therefrom species or subspecies of nongame wildlife.

(2) The department shall by such regulations establish proposed limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage

such nongame wildlife. The department may make such changes in the proposed regulations as are consistent with effective management of nongame wildlife as designated by the legislature.

History: En. Sec. 4, Ch. 461, L. 1973; and Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1804(part).

87-5-106. Unlawful acts. Except as provided in regulations issued by the department, it shall be unlawful for any person to take, possess, transport, export, sell, or offer for sale nongame wildlife deemed by the department to be in need of management. Subject to the same exception, it shall further be unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife deemed by the department to be in need of management.

History: En. Sec. 4, Ch. 461, L. 1973; and Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1804(3).

87-5-107. List of endangered species. (1) (a) On the basis of investigations on nongame wildlife provided for in 87-5-104 and other available scientific and commercial data and after consultation with other state wildlife agencies, appropriate federal agencies, and other interested persons and organizations but not later than 1 year after July 1, 1973, the department shall recommend to the legislature a list of those species and subspecies of wildlife indigenous to the state which are determined to be endangered within this state, giving their common and scientific names by species and subspecies.

(b) The department shall have authority to recommend that the legislature include any species or subspecies of fish and wildlife appearing on the United States' list of endangered native fish and wildlife (part 17 of Title 50 of the Code of Federal Regulations, appendix D) as it appears on July 1, 1973, as well as any species or subspecies of fish and wildlife appearing on the United States' list of endangered foreign fish and wildlife (part 17 of Title 50 of the Code of Federal Regulations, appendix A), as such list may be modified hereafter.

(2) The department shall conduct a review of the state list of endangered species within not more than 2 years from its effective date and every 2 years thereafter. The department shall request the legislature to amend the list by such additions or deletions as are deemed appropriate and at such times as are deemed appropriate.

(3) Except as otherwise provided in this part, it shall be unlawful for any person to take, possess, transport, export, sell, or offer for sale and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

(a) the list of wildlife indigenous to the state determined to be endangered within the state pursuant to subsection (1);

(b) any species or subspecies of fish and wildlife included by the department and appearing on the United States' list of endangered native fish and wildlife (part 17 of Title 50, Code of Federal Regulations, appendix D) as it appears on July 1, 1973; and the United States' list of endangered foreign fish and wildlife (part 17 of Title 50, Code of Federal Regulations, appendix A), as such list may be modified hereafter.

(4) Any species or subspecies of wildlife appearing on any of the foregoing lists which enters the state from another state or from a point outside the territorial limits of the United States and which is transported across the

state destined for a point beyond the state may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(5) In the event the United States' list of endangered native fish and wildlife is modified subsequent to July 1, 1973, by additions or deletions, such modifications, whether or not involving species or subspecies indigenous to the state, may be accepted as binding under subsections (3) and (4) if, after the type of scientific determination described in subsection (1), the department recommends and the legislature accepts such modification for the state.

History: Ap. p. Sec. 5, Ch. 461, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; Sec. 26-1805, R.C.M. 1947; Ap. p. Sec. 2, Ch. 461, L. 1973; amd. Sec. 12, Ch. 417, L. 1977; Sec. 26-1802, R.C.M. 1947; R.C.M. 1947, 26-1802(part (4)), 26-1805.

87-5-108. Establishment of programs. (1) The director shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The department shall establish such policies as are necessary to carry out the purpose of this section and 87-5-109.

(2) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies, political subdivisions of the state, or with private persons for administration and management of any area established under this section and 87-5-109 or utilized for management of nongame or endangered wildlife.

(3) The governor shall review other programs administered by him and, to the extent practicable, utilize such programs in furtherance of the purposes of this section and 87-5-109. The governor shall also encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section and 87-5-109.

History: En. Sec. 6, Ch. 461, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1806(1) thru (3).

87-5-109. Taking of species for educational, scientific, or other purposes. (1) The director may permit the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife which appear on the state list of endangered species, on the United States' list of endangered native fish and wildlife, as amended and accepted in accordance with 87-5-107(5), or on the United States' list of endangered foreign fish and wildlife, as such list may be modified hereafter, for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

(2) Upon good cause shown and where necessary to alleviate damage to property or to protect human health, endangered species may be removed, captured, or destroyed but only pursuant to permit issued by the director and, where possible, by or under the supervision of an agent of the department. Endangered species may be removed, captured, or destroyed without permit by any person in emergency situations involving an immediate threat to human life. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth above shall be set forth in regulations issued by the department pursuant to 87-5-104.

History: En. Sec. 6, Ch. 461, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1806(4), (5).

87-5-110. Department to issue regulations. The department shall issue such regulations as are necessary to carry out the purposes of this part.

History: En. Sec. 7, Ch. 461, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1807.

87-5-111. Enforcement and penalty. (1) Any person who violates the provisions of this part or whoever fails to procure or violates the terms of any permit issued thereunder shall be guilty of a misdemeanor.

(2) Upon a first conviction for a violation under this part, the court may fine the defendant not to exceed \$250. Upon a second such conviction, the defendant may be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 30 days, or both. Upon subsequent such convictions, the defendant shall be fined not less than \$500 or more than \$1,000 and in addition may be imprisoned in the county jail for any term not to exceed 6 months.

(3) Any officer employed and authorized by the director or any peace officer of the state or of any municipality or county within the state shall have authority to enforce the provisions of this part.

(4) Wildlife seized under the provisions of this part shall be held by an officer or agent of the department pending disposition of court proceedings and thereafter be forfeited to the state for disposition as the director may deem appropriate. Prior to forfeiture, the director may direct the transfer of wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping. The department is authorized to issue regulations to implement this subsection.

History: En. Sec. 8, Ch. 461, L. 1973; amd. Sec. 1, Ch. 359, L. 1975; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1808.

87-5-112. Construction. None of the provisions of this part shall be construed to apply retroactively or to prohibit importation into the state of wildlife which may be lawfully imported into the United States or lawfully taken or removed from another state or to prohibit entry into the state or possession, transportation, exportation, processing, sale or offer for sale, or shipment of any wildlife whose species or subspecies is deemed to be threatened with statewide extinction in this state but not in the state where originally taken, if the person engaging therein demonstrates by substantial evidence that such wildlife was lawfully taken or removed from such state; provided that this subsection shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale, or shipment within this state of wildlife on the United States' list of endangered native fish and wildlife, as amended and accepted in accordance with 87-5-107(5), except as permitted in the provision by 87-5-107(3) and (4) and 87-5-109(1).

*Don
Import
Museum
Hunt*

History: En. Sec. 9, Ch. 461, L. 1973; R.C.M. 1947, 26-1809(1).

Part 2

Wild Birds — Regulation of Raptors

87-5-201. Protection of wild birds and their nests and eggs. It is unlawful for a person to hunt, capture, kill, possess, purchase, offer or expose for sale, ship, or transport any wild bird, other than a game bird, or

Amendments to House Bill 377

Page 3, Line 18

Following: "Account"

Insert: "Except as provided in subsection (4)"

Page 4, Line 5

Insert: "(4) The department of revenue may deduct from collections an amount not to exceed \$9,638.00 in fiscal year 1984 and \$6,238.00 in fiscal year 1985 for administering the voluntary checkoff program. The department is authorized to spend the amounts and hire necessary personnel."

March 11, 1983

Senator Ed B. Smith
Senate Fish and Game Committee
Capitol Building
Helena, MT 59601

Dear Senator Smith:

I respectfully request the contents of this letter be included in the minutes of the Senate Fish and Game Committee hearing on HB-377.

I am chairman of the Montana Rodent Damage Control Council. The council was organized in 1980 to deal with a ground squirrel problem that we have in western Montana. Membership includes landowners and county government officials from 12 western Montana counties.

In 1979, the first year the counties conducted an organized rodent control program, a lot of concern was expressed by the general public that the control methods may have an adverse effect on the environment. To resolve this the council has involved the various conservation groups, the Fish, Wildlife and Parks Department, the University of Montana Cooperative Wildlife Research Unit, and the Montana Department of Agriculture which is responsible for the rodent program at the state level. This process has enabled us to develop a good working relationship with these groups and at the same time address an economic problem for the landowners and the environmental concerns of the public.

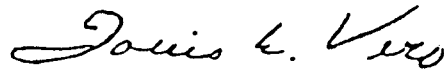
The council discussed at its meeting last December the proposed non-game legislation which is being introduced as HB-377. The council voted to remain neutral on HB-377 because the members had not had a chance to review this legislation. However, the council went on record with two major points regarding this legislation.

1. The existing Non-game and Endangered Species Conservation Act of 1973 does not interfere with the rodent control programs being conducted by the counties and the Montana Department of Agriculture. Subsequent examination of HB-377 and discussions with the Montana Fish, Wildlife and Parks Department also reveal that HB-377 will not interfere with rodent control programs.

2. The non-game program could provide a source of research dollars that would enable us to develop an integrated pest management approach to our rodent control problems. Field rodent research is desperately needed to provide new control methods that will enable the landowners to control ground squirrels and at the same time prevent non-target damage.

The Montana Rodent Damage Control Council looks forward to a continued good working relationship with the groups involved with rodent control and vertebrate pest management and urges your consideration for this legislation.

Sincerely,



Louis Vero
E/L Ranch
Box 24
Greenough, MT 59836

cc: Senate Fish and Game Committee Members
Montana Fish, Wildlife and Parks Department

Exhibit 19
March 19, 1983

TO: SENATE COMMITTEE ON FISH, WILDLIFE & PARKS
HOUSE BILL 377 FABREGA (AN ACT TO PROVIDE FUNDS FOR THE PRESER-
VATION & MANAGEMENT OF NON-GAME WILDLIFE IN MONTANA.)

AMENDING SECTION 87-5-102 MCA

THE MONTANA CATTLE FEEDERS ASSOCIATION IS OPPOSED TO HOUSE BILL 377
BECAUSE:

WE THINK THAT ESTABLISHING A VOLUNTARY CHECK OFF ON THE INCOME TAX
FORM WILL OPEN A PONDERAS BOX TO ALL SORTS OF OTHER WELL-MEANING AND
WORTHWHILE PROJECTS.

IF THE FISH, WILDLIFE & PARKS DEPARTMENT CAN COLLECT FUNDS FOR THE
MANAGEMENT OF NON-GAME WILDLIFE IN THIS FASHION, WHAT IS TO STOP THEM
FROM COMING BACK NEXT YEAR AND FOR MANY YEARS AFTER TO COLLECT VOLUNTARY
FUNDS FOR MANY OTHER PROJECTS.

ALSO, IF THIS BILL GOES THRU WHAT IS TO STOP THE STATE HISTORICAL
SOCIETY, OR THE CHARLIE RUSSELL MUSEUM OR THE STATE PUBLIC HEALTH DEPT.,
OR ANY OTHER STATE DEPARTMENT FROM BACKING BILLS TO PROVIDE VOLUNTARY
FUNDS THRU THE PROPOSED INCOME TAX CHECK OFF SYSTEM?

WE THINK THAT THIS METHOD OF COLLECTING MONEY WILL COST THE STATE OF
MONTANA A LOT OF UNNECESSARY BOOKKEEPING, LABOR, AND EXPENSE AND CAN LEAD
TO THE ESTABLISHMENT OF MORE STATE EMPLOYEES AT A TIME WHEN WE ARE TRYING
TO HOLD THE LINE ON UNNECESSARY STATE EXPENSES.

JOHN CONTER
EXECUTIVE VICE-PRESIDENT
MONTANA CATTLE FEEDERS ASSOC.
1106 MAIN STREET
BILLINGS, MONTANA 59105

WITNESS STATEMENT

NAME John Conter BILL No. HB 377

ADDRESS Billings DATE 3/19/83

WHOM DO YOU REPRESENT Montana Cattle Feeders Association

SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Montana Cattle Feeders Association is worried about the control of non-game animals because many of these animals can cause havoc in a feed lot if they cannot be controlled by the feed lot operator.

Skunks can carry rabies into a feed lot and infect many animals in a single night, because the animals are confined and cannot get away.

Raccoons and ground squirrels carry lipto. Starlings, magpies, crows and sparrows carry blackleg, malignant edemna, anthrax, and redwater.

The biggest problem is when large numbers of starlings and sparrows descend on any given feed lot. They consume large amounts of feed, but also destroy more than they eat by defecating in the grain piles and feed bunks, then the animals will not eat the feed.

Sparrows, magpies and burrowing owls have no respect for property lines and make no distinction between public and private lands.

UNIVERSITY OF MONTANA WILDLIFE SOCIETY

Exhibit 20

TESTIMONY IN SUPPORT OF HOUSE BILL 337

March 19, 1983

Mr. Chairman and members of the Committee:

My name is Randy Hohf and I am speaking on behalf of the University of Montana Student Chapter of the Wildlife Society. The Wildlife Society is a national organization of wildlife biologists dedicated to professionalism in the field of wildlife biology. The student chapter at U. of M. consist of about sixty-five members.

Since I am here to represent biologists, I would like to propose some biological reasons for funding the non-game program.

First, I would like to mention just a few examples of direct benefits to non-game wildlife that could occur if the program is properly funded:

- 1) Placement of nesting boxes for Western bluebirds and other songbirds
- 2) Placement of nesting platforms for Ospreys
- 3) Enhancement of wetlands to benefit shore birds such as sandhill cranes, white pelicans, and great blue herons
- 4) Planting of winter shelterbelts for owls and songbirds
- 5) Identification of food habits of burrowing owls in order to understand their requirements for existing in Montana
- 6) Performance of inventories of these and other species in order to address their long-term management needs
- 7) Identification of indicator species which allow managers to monitor the condition of the physical environment.

Secondly, I would like to talk briefly about endangered species. By providing a data base through inventories of non-game wildlife populations in Montana, we could prevent species from becoming endangered by determining their status and requirements before population levels become dangerously low. We could also prevent species from being placed on the Endangered Species List just because we think they are endangered, when in fact they may not be.

Finally, and most importantly, there is the necessity of preserving nature's ecological balance. Every species plays a specific role in keeping the environment in balance. For example, raptors prey on rodents, and the removal of these birds from the system may allow rodent populations to increase, possibly to the point where they cause crop damage. Woodpeckers and other insectivorous birds help to control populations of forest damaging insects such as spruce budworm and mountain pine beetle.

It is much easier and cheaper to prevent an upset in the balance of the natural world than to try and restore equilibrium after it has been destroyed. The famous wildlife manager and conservationist Aldo Leopold once said:

"To keep every cog and wheel is the first precaution in intelligent management." As professional and future professional wildlife biologists, the members of the U. of M. Wildlife Society urge this committee to support "intelligent management" by funding the non-game program through the tax check-off system. If you have any questions, I will be happy to answer them. Thank you very much.

Exhibit 21, March 19, 1983

HB 377

March 15, 1983

Senate Fish and Game Committee

In Billings we are fortunate to have a veterinarian who, all on his own, rehabilitates wild birds. The local Audubon chapter has built an exercise cage for these raptors to regain their strength. Snowy Owls, and Bald Eagles who have had broken wings, have been brought back to such condition that they can be released into the wild again.

I know that in a few cases raptors can become pests doing some damage to livestock, but in these cases Montana law allows them to be destroyed. However, the main diet of raptors is rodents - ground squirrels, prairie dogs, rabbits, mice, shrews and even skunks - so that returning them to the wild again is a real advantage.

In most places in Montana there is no place to take wounded, poisoned or injured raptors, since Fish, Wildlife and Parks Department has no personnel or facilities to treat them. Funds from this ~~XXXXXXXXXXXX~~ voluntary check-off might be used to aid others who are interested in raptor rehabilitation.

Onahee did want to be a booklet for trappers getting their permits, which would tell them what to do if raptors are caught in traps. Meriwata does that.

Bebe Fitzgerald

2223 Spruce

Billings 59101

NAME: Luci Brieger DATE: 3-19-83

ADDRESS: 511 S. Raleigh Helena 59601

PHONE: 443-4169 h 443-2520 w

REPRESENTING WHOM? Mt. Environmental Info. Center; Mt. Conservation Congress

APPEARING ON WHICH PROPOSAL: HB 377

DO YOU: SUPPORT? Yes AMEND? _____ OPPOSE? _____

COMMENT: Over 40 member groups of the Mt.
Conservation Congress discussed this
issue at the annual meeting in Sept. 1982.

All groups endorsed the nongame wildlife
funding tax checkoff. We recognized that necessary
info (to be used by env. impact statements) is not readily
available ^{on nongame species.} A more adequately funded nongame program
could provide such info. + make it available for
all research projects involving natural resource
development. The EIS information gathering process would be
much easier, less costly, and more efficient, with a
well funded nongame wildlife program.

The fact the checkoff works in 12 other states proves that it
would work here.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Conservation Groups in Support of HB 377

Alliance for a Nuclear-Free Montana
Alternative Energy Resources Organization
American Fisheries Society
Cabinet Resource Group
Citizens for an MX-Free Montana
Canyon Coalition
Common Cause
Defenders of Wildlife
Elkhorn Citizens Organization
Five Valleys Audubon
Flathead Audubon
Flathead Resource Organization
Great Bear Foundation
Headwaters Alliance
Institute of the Rockies
Last Chance Audubon
League of Women Voters
Madison-Gallatin Alliance
Mo Breaks Protective Association
MEIC
MEIC-Bozeman
Mt Wilderness Association
Mt Wildlife Federation
MontPIRG
Nature Conservancy
North Fork Preservation Association
Northwest Citizens for Wilderness
Northern Rockies Action Group
Pintlar Audubon
Rocky Mountain Front Advisory Council
Sierra Club-Yellowstone Valley Group
Sierra Club- Last Chance Group
Sierra Club- Bitterroot Group
Solar Energy Industry Association
Trout Unlimited- West Slope Chapter
Upper Mo Breaks Audubon
Western Sanders County Involved Citizens
Wildlands and Resources Association
Wilderness Society
Wildlife Society- UM Chapter
Yellowstone Valley Audubon
Flathead EIC

Submitted by Luci Brieger, representative of the Mt Conservation Congress.

These member organizations unanimously endorsed a Tax check-off funding mechanism for the mongone wildlife program. Our position paper is enclosed. We discussed the issue at the annual meeting, in Sept. 1982, in Helena.

HB 377

White Paper on Non-Game Wildlife

Introduction-Problem Statement

Montana law provides for the management of the State's non-game wildlife. This management responsibility has been placed in the hands of the Mt. Dept. of Fish Wildlife and Parks. However, over the years since the program was established, funding has steadily deteriorated. The Department, not having an earmarked source of funds for this program, as it does for its game programs, has chosen not to seek other major funding sources. So the non-game program hangs on by a slender thread. The greatest reason for supporting a non-game program with adequate funding is that the state could establish a positive rather than a reactive program. With adequate funds a program which seeks out those species which are not presently threatened or endangered and seeks to improve the population is a possibility. At present, a species is threatened or endangered before steps are taken to improve its habitat and thereby increase numbers in the population. Usually, by the time a species is in the shape that it needs to be classified as threatened or endangered, it is just about too late to take corrective measures. Also, because not enough money is spent in learning about non-game species, they can be classified incorrectly as endangered or threatened. Such was the case with the snail darter in Tennessee. This particular case an endangered species stopped construction of a dam, and caused a "black eye" for the endangered species act. The snail fish, after further research, was found to be relatively abundant in streams in the region. With adequate funding to begin with, the whole controversy would not have existed. The non-game program could provide an organized means of support for research which is necessary in Montana to provide an understanding of what needs to be managed and how that management can proceed so that non-game species do not become threatened or endangered because of neglect.

Many people throughout Montana spend thousands of hours gathering information on our non-game wildlife. We need a focus for these volunteers so that their efforts won't be wasted. A non-game program in DFWP could serve as the focus, both for compilation of data and for its dissemination.

Environmental impact statements being written under NEPA or MESA or other statutes require an assessment of a development's impacts on all of the natural environment. Information on game species is readily available throughout the state, and can be used easily and cheaply. No such information source exists for non-game species. Since non-game has had relatively little research done on it, it becomes necessary to do research on each project. This method of doing non-game research on a piecemeal basis is extremely costly and inefficient.

Status Quo -

Because of an apparent lack of initiative on the part of DFWP to request adequate funding for its legally mandated responsibility, private organizations within the state organized to pass a bill through the legislature in 1980 which would have provided that funding. This bill became known as the "Non-game" or "Chickadee Checkoff" bill since it provided for a tax checkoff to support the non-game program. The bill was sponsored by a number of legislators and it looked as if a full hearing might mean a possibility of passage. Unfortunately, the bill ran into trouble from the beginning. The political process of the legislature was used to block the bill from ever reaching the floor of the house. This referral to the committee - taxation and the Fish & Game committees. This referral to the committee was done at the very last minute - even if the bill had gotten out of committee it would not have had enough time to pass out of the house before the deadline for transmittal to the senate. Both committees essentially rejected the bill. Those members opposed to the bill were actually opposed to the original legislation which set up the non-game program. By allowing the non-game program to go without funding, the committee have essentially rescinded the legislation.

After the defeat of the legislation, the Montana Audubon Council formed a non-game committee to look into what future steps should be. An initiative was suggested but lack of time and organization prevented that avenue. The Council is still discussing future attempts to fund a non-game program in Montana, the one essential element - grass roots organization - has been the one missing from past attempts.

Problems with Past Attempts-

1. Not a large and varied enough constituency of support for the legislation - Audubon became too closely associated with the issue.
2. Vast amount of misinformation being given out by those opposed to the bill - played on fears of private landowners that this would be more government intervention.
3. Lack of an "in" to the political process - the process slowed the bill down so much that it did not get an adequate hearing.
4. Lack of contact with the legislators involved - grass roots organization needed to reach legislators at home prior to and during the session.
5. Naivness of supporters - there was a general feeling that all we needed to do was present the facts; the opposition relied on supposition and emotion and won.

Recommendations

1. Put pressure on DFWP to request an adequate budget for its non-game program; one that supports grants to university students and professors to study non-game, that is responsible for developing a state-wide network for the compilation and dissemination of information on non-game species, that develops management programs for selected target species and that assists private land owners and public agencies in the development of their own lands for the benefit of non-game wildlife. The development of a Natural Heritage Program is one step toward the positive management of private and public lands for the benefit of non-game wildlife.
2. Draft and support legislation for an income tax check-off as proposed in [98]. It should be clearly designated as a tax issue. Fish and Game (DFWP) should present a proposal for how they plan to spend the money to the Fish and Game Committee; this should be based on a number of different scenarios of support which could be generated by the bill.
3. Should the legislation fail, begin initiative process immediately. This will take a much larger effort than passing a bill in the legislature.

Department of Fish, Wildlife, and Parks

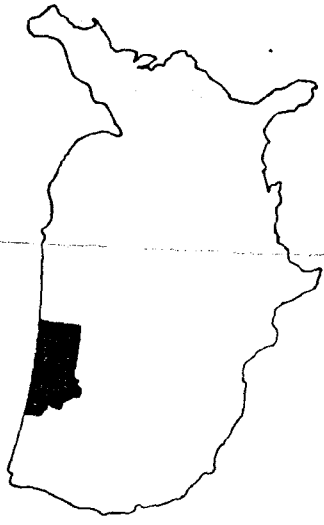
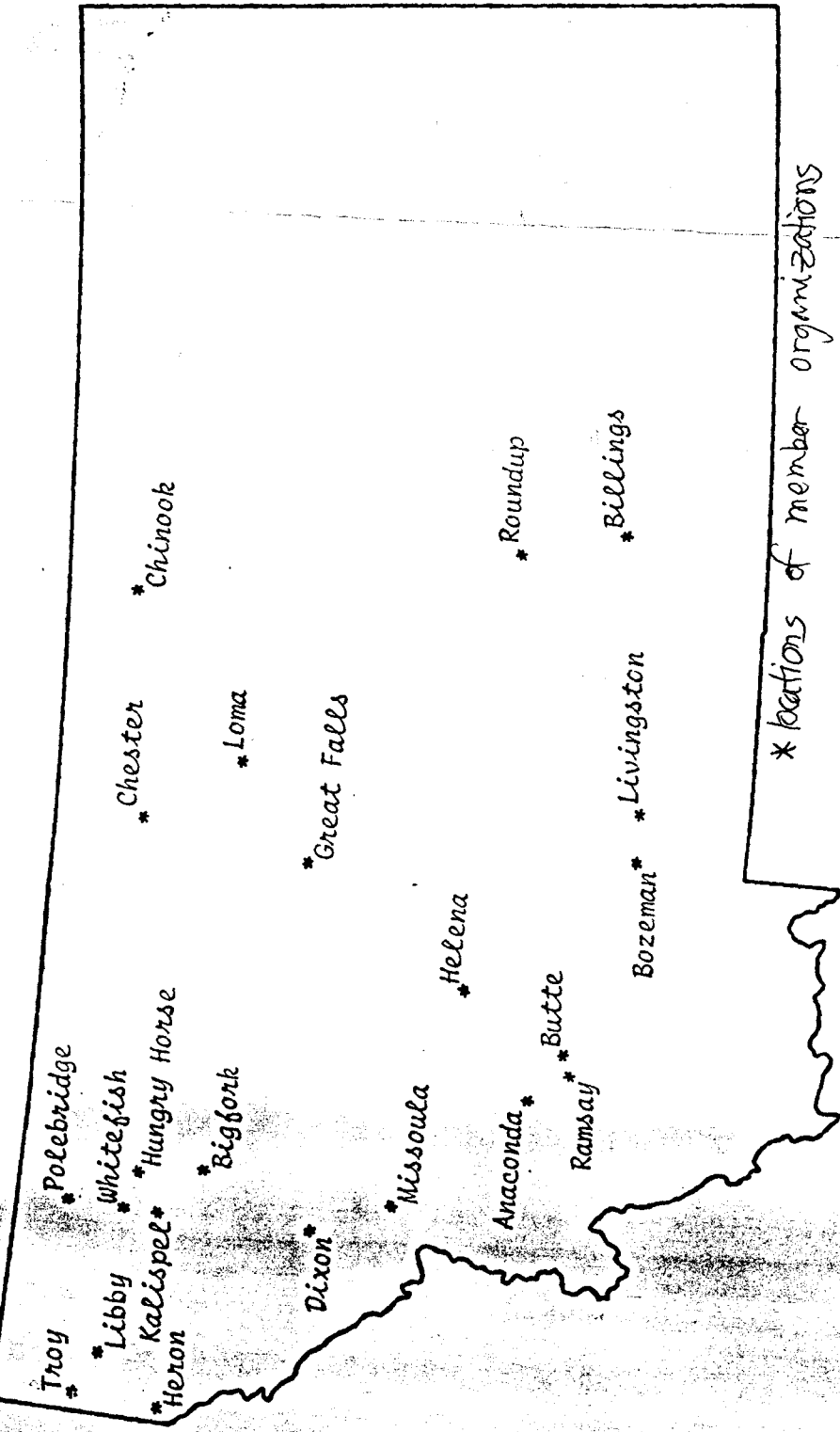
There unquestionably have been real changes in the Department over the past eight years. It must be recognized that those changes are rooted in executive reorganization begun fourteen years ago under Governor Anderson. The semi-independent resource advocacy agency of the 60's has changed to a more typical executive agency, accountable and responsive to the Governor.

It should also be recognized that, unlike the Department of 1977-1980, it is now being well run and effectively administered by its present Director. Return to the old system through the legislative changes that would be necessary is unlikely.

Problems identified by the Department of adequate financing and a renewed acquisition program for key properties is a direction worthy of support and backing.

Conservation groups should also adopt a strategy of close participation and direct involvement with the agency. It is an accessible agency and pressure for program emphasis on basic conservation issues could be effective. Even an old friend and ally can stray if taken for granted and ignored.

The present budget process is a key area generally ignored by the constituents of this agency. At this time, the next budget is based on the actual expenditures of fiscal year 1982. New direction and programs are in the Executive Planning Process, and dependent on new revenues. Review of those programs may be in order. Conservation can then address those new directions supporting what they feel are positive directions and challenge those seen as less valuable.



Montana Conservation Congress

Po Box 961 Helena 59624

STATEMENT FOR THE SENATE FISH & GAME COMMITTEE ON
BEHALF OF H.B. 377.

I am Gordon G. Weber, 2303 Elm St., Billings, Montana.

Even though I held down a so called desk job all my working years I consider myself to be an outdoor enthusiast. I gave up hunting quite a number of years ago, but still love to fish and to hike the plains, hills, and mountains. When non game decals were available several years ago I purchased them to compensate for the enjoyment I receive from the many facets of wildlife. H.B. 377 will give me, as well as other outdoor enthusiasts, an opportunity to voluntarily contribute to the enjoyment of the outdoor scene. And this without the use of tax dollars. I thank you.

March 19, 1983

Senator Ed Smith
Chairman, Fish & Game Committee
Capitol Station
Helena, Montana 59601

Dear Senator Smith:

"Mr. Chairman, members of the Committee, thank you for this opportunity to testify in favor of House Bill 377. I am Dwight Bergeron, of Helena, Montana, representing the Montana Chapter of the Wildlife Society. The Montana Chapter has a membership of about 150 professional wildlife biologists who work for private industry, state and federal agencies.

At it's annual convention in February, the Montana Chapter passed a resolution as follows:

WHEREAS, the Montana Chapter of The Wildlife Society is an organization of professional biologists and others concerned with the management and welfare of wildlife resources within the State of Montana; and

WHEREAS, the State of Montana passed in 1973 a law defining nongame wildlife; and

WHEREAS, funding was omitted and such funding as the State Department of Fish, Wildlife and Parks did obtain came from sportsmen's license fees; and

WHEREAS, twenty states now have enacted into law a method of funding known as the "state income tax check-off"; and

WHEREAS, it is successful, low cost to administer and entirely optional to the taxpayer;

NOW, THEREFORE, BE IT RESOLVED That the Montana Chapter of The Wildlife Society endorses efforts being made in the current session of the Montana legislature to again endeavor to enact this legislation.

The passage of House Bill 377 will help the State carry out its statutory responsibilities. Funding for the non-game program means that a little more will become known about those species of less legal stature than the game species. At times certain non-game species come into conflict with some segments of society. Any conflict is apt to be more adequately resolved through knowledge, than ignorance. At the present our knowledge of non-game species is inadequate, and little is known about many of them, especially their distribution in Montana.

As examples, mining companies needing non-game animal information about a particular area would benefit from this program. Farmers and ranchers with rodent problems would benefit. The non-game program is not, as has sometimes been feared by some, an endeavor to add creatures to the rare and endangered list. Indeed, where rare or endangered species do, rarely, exist, all segments of society are better off knowing more specifics about them.

The non-game program is a legislatively mandated function 10 years old, with the purpose of obtaining more knowledge about all the wildlife we have in Montana. This knowledge can contribute to fewer, not more, problems for people.

On behalf of the Montana Chapter of the Wildlife Society, I respectfully urge you to give House Bill 377 a do-pass recommendation.

Thank you.

Sincerely,

Dwight Bergeron
800 Glendale
Helena, Montana 59601

United States Citizen

Missoula, Mt. 59807

Senator Ed Smith, Chairman
Senate Fish and Game Committee
Montana State Legislature
Helena, Montana

19 March 1983

Chairman Smith and Committee Members:

My name is Pete Carroll. I am a resident in the City of Missoula and a registered voter in the State of Montana. I am writing you today to express to you my support for H.B. 377, a Nongame Funding bill.

The Nongame Funding bill is written to provide public funding for the nongame wildlife programs in the state in the form of a tax checkoff. I would urge you to support this bill, not because other states already have similar programs, but because Montanans will benefit for such a program.

The Nongame Funding bill would:

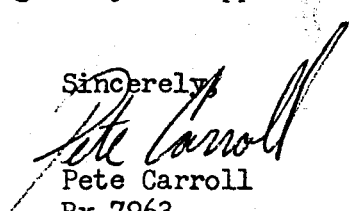
1. Provide an accurate measure of the public support for non-wildlife programs in Montana.
2. Increase public awareness of Fish and Game programs and policies throughout the state.
3. Provide an easy mechanism for "non-consumptive users" of wildlife to contribute to wildlife management programs.
4. Allow big-game license fee monies to remain in the big-game management programs in the state.

These are only four of the many reasons why the Nongame Funding bill deserves your support. The amendments added to the bill while it was in the House further enhance the bill.

In closing, I would like to remind you that nongame wildlife is an integral part of the natural community. It is difficult for some people to understand this fact because non-game wildlife cannot be hooked or bagged into personal possession. It is, then, even more important to provide funding for nongame wildlife programs. The Nongame Funding bill will provide for that funding.

Once again, I am asking for your support to pass the Nongame Funding bill.

Sincerely,



Pete Carroll

Bx 7963

Missoula, MT 59807

March 19, 1983

Testimony on HB 377

My name is Christine Deveny. I reside in Helena, Montana. I am here today in support of HB 377.

The 1973 Montana Non-Game and Endangered Species Act mandates the state of Montana to manage non-game wildlife "for human enjoyment, for scientific purposes, and to insure their perpetuation as members of ecosystems". However, since 1973 no funding has been appropriated to carry out that mandate. HB 377 is the answer to funding for the non-game program. By implementing a voluntary check-off system for donations by Montana taxpayers, the non-game program can be supported without the use of any general fund money.

This positive approach to funding will generate the money needed to inventory and manage our non-game populations, as well as educate Montanans about the important roles these wildlife species play in our environment. Benefits will be gained by both Montana residents and the non-game species as we gain a better understanding about the ecosystems we share.

The more than 600 species of non-game animals in Montana belong to all Montanans, and are a very important wildlife resource in this state. The 1973 legislature recognized this importance in passing the Montana Non-Game and Endangered Species Act. I hope this committee and this legislature will further recognize the importance of non-game species in Montana, and will pass HB 377 so that funds may be obtained to implement the program.

Thank-you for considering my comments.

Testimony in support of HB 377.

My name is Margaret Edams, resident of Great Falls, by profession a school-administrator, and by avocation an observer of wildlife, and ardent lover of our state of Montana.

Because of my professional association with school children, I am very conscious of the heritage which we adults are leaving for the next generations. We have demonstrated that with sufficient research and careful management, our state can continue the rich heritage of game animals and birds. We now need to finance similar research and management for the non-game species.

HB 377 allows a method of funding such research through voluntary contributions by interested citizens. Our state as well as Pennsylvania and Colorado tried to fund such non-game research through the sale of decals. In each state the decal sale proved impractical. Pennsylvania and Colorado have since started a income tax-check-off procedure, and in both states important funds are accumulated.

I urge the passage of HB 377 to allow citizens to contribute to preserving

Senator Ed Smith, Chair
Senate Fish & Game Commission

Dear Senator Smith,

I'd like to see HB 377 passed. Having been educated in forestry, I see the value in managing non-game wildlife. Montana is still fairly pristine, and abundant in animal species. If we're smart, we'll keep it that way. I'm from the midwest originally, and lack of foresight has had some sad results.

We should consider the future of this state. Montana's abundant wildlife is one of the main features of its aesthetic appeal. This aesthetic quality brings a lot of money to Montana. It would be practical to have the foresight to maintain that quality. I see the support for a non-game wildlife management program, provided by HB 377, as part of that foresight.

Please give this your serious consideration & subsequent support.
Thank you

Sincerely,
Art Held

March 19, 1983

Sen. Ed Smith, Chair
Senate Fish and Game Commission

Dear Senator Smith,

This letter is in support of HB 377, I urge your committee to give it full backing.

I grew up on a farm in western Montana part of what made that experience valuable was exposure to the non-domestic animals that lived on and with our farm. They were a big part of teaching us to appreciate what nature is. And there was room for all; each had its niche and everything lived together.

We Montanans need to have an interest in, and concern for, all of what this state is. This bill is a way to do that, by providing funding facilitating 1973 legislation which called for management of non game wildlife.

I understand that there are some persons from the agricultural community who see HB 377 as threatening; perhaps they fear they'll be prohibited from effectively dealing with predatory animals, or that they may lose some of their land to wildlife. As far as I can see, those fears are not founded in fact. Some of the main threats to agricultural operations from wildlife are grizzlies, coyotes and prairie dogs. As you know, none of these animals are considered part of the non-game wildlife of interest in this bill.

If there should be problems, the bill must be passed again in 4 years, which should reassure

anyone skeptical of the potential consequences. Furthermore, none of the money that may be raised by the provisions made in this bill could be used to purchase private land. It appears to me that opponents of this bill must be afraid of something other than what is stated, intended, or implied by this piece of legislation. How could a voluntary contribution toward a non-game wildlife management program be anything but a benefit to our state? It even has the added advantage of having been demonstrated to be successful in other states.

Again, I want to urge your support of this bill, and also your continuing support of and interest in the protection of all Montana's wildlife, one of our greatest assets. Thank you for your time and serious consideration.

Sincerely,

Cecilia Gallagher
Bozeman, Montana

MR. Ed Smith, Chairman
Senate Fish and Game Committee

MR. Smith:

I am testifying in support of HB377, the nongame wildlife income tax check off.

It has been my feelings for some time that, in general, a strong agricultural economy and a diverse and healthy wildlife community go hand in hand. This applies not only to game animals, it applies to nongame wildlife as well. The agricultural community places a great deal of pride and value on the lifestyle that they lead. The closeness with the land and the love of the out of doors are a large part of the benefits of this life. Nongame wildlife also play a role in this lifestyle.

Any agricultural producer can tell you that knowledge pertaining to livestock, crop production or farm methods is a valuable tool making them a better land manager. Likewise, intelligent management of nongame wildlife depends on a proper understanding of their relationships with the land which we manage.

It seems that a great deal of the opposition to this bill stems from the suspicion that there is an ominous ulterior motive behind the bill to somehow gain control over land management practices by private individuals. I don't believe for a minute anyone supporting this bill is in any way considering it as a tool to gain control over private land use practices in the agricultural sector. Please, accept this bill for what it is. It is simply a reasonable way to increase our knowledge about a piece of nature which we are extremely

ignorant of.

Instead of using this bill as a rope to start a tug of war between rural landowners and people interested in non game wildlife, we should see it as a rope which we can use to build a bridge of understanding to bring us closer together.

Respectfully,

Christopher B. Clancy

Exhibit 33
March 19, 1983

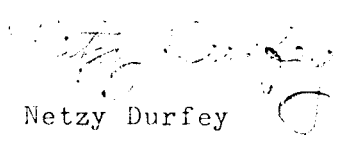
514 North B Street
Livingston, Montana 59047
March 18, 1983

To whom it may concern:
re: HB377

Non-game animals are important enough and appreciated enough by the people of Montana that monies to manage and study them should be provided. HB377 allows for a voluntary tax check off system which could only enhance the educational process of proper management of these animals.

We recommend that you support this bill.

Respectfully,


Netzy Durfey

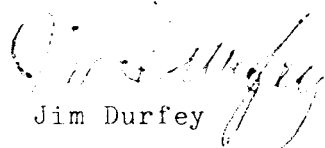

Jim Durfey

Exhibit 32
March 19, 1983

1001 Ridgeway Drive
Livingston, Montana 59047
March 18, 1983

Mr. Ed Smith, Chairman
Senate Fish and Game Committee

Mr Smith:

I am writing to urge you and your committee to support the Nongame Tax Check-Off Bill, Hb 377.

Our rich and diverse wildlife heritage is the pride of all Montanans. Almost everyone thrills at the sight of a bald eagle along a river and we all know that spring is really near when the first bluebird arrives. Many Montanans want to be sure that these experiences will always be here.

The legislature has already passed a law mandating the wise management of Montana's nongame resources, but funding has not been provided. The Nongame Tax Check-Off bill has proved successful in raising revenue for nongame wildlife in other states and is now law in 20 states. There is an excellent democratic rationale behind this funding approach: the people themselves will decide the level at which they want the nongame program funded.

Please support this bill so that the people of Montana have an opportunity to participate directly in the management of our nongame wildlife resources.

Respectfully yours,

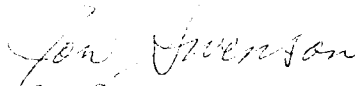

Jon Swenson

Exhibit 33
March 19, 1983

409 South I Street
Livingston, Montana 59047
March 18, 1983

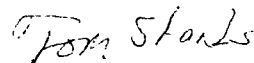
To whom it may concern:

re: HB377

Non-game animals are important enough and appreciated enough by the people of Montana that monies to manage and study them should be provided. HB377 allows for a voluntary tax check off system which could only enhance the educational process of proper management of these animals.

We strongly recommend that you support this bill.

Sincerely,

A handwritten signature in cursive script that reads "Tom Shands".

Tom Shands

Exhibit 34
March 19, 1983

Tara Gallagher
319 N. 3rd St. #3
Livingston, MT 59047

Senator Ed Smith, Chairman
Senate Fish & Game Committee
Capitol Station
Helena, MT 59047

Dear Senator Smith:

As a voter concerned about the protection of Montana's non-game wildlife, I urge you to support the HB 377 income tax check-off. It is my view that this bill would enable individual Montanans to help protect non-game animals by directly funding the study of their needs.

As one of many Montanans with a rural upbringing, I appreciate the needs and the value of Montana's wildlife as well as its farm and ranch lands. But while certain wildlife are well protected, many others seem unnoticed; their needs unknown.

While I am not unaware that we need foresight to try to predict any adverse effects legislation might have on any group, I believe the concern expressed to you by other members of the agriculture community are basically unfounded with regard to HB 377. Agriculturists who oppose a fund merely to study the needs of non-game wildlife are over-reacting to a fear that their land use needs will be infringed upon.

For example, three of farmers' and ranchers' worst enemies are not classified non-game animals and would not be affected by HB 377. The coyote is classified as a predator; the grizzly is considered a game animal, and both are managed as such. The prairie dog, long despised by farmers and ranchers, is managed by the State Livestock Board.

I do not believe funding the study of non-game animals will threaten my family's right to manage its farmland as it deems most proper. Nothing about such a study will fix future hand-tying land management legislation. It is my view that protecting Montana land, agriculture and wildlife must balance the needs of all three.

It is important that such a study will not incur costs to taxpayers across-the-board; instead, taxpayers so inclined can contribute voluntarily. This is a program worth adopting.

Further, none of the funds collected by the non-game check-off could be spent for land acquisition. Farmers and ranchers can lay to rest the feared loss of agricultural land.

Finally, as further protection, the sunset clause in HB 377 protects all parties by limiting to four years the non-game income tax check-off. If by 1987, the study were to be found unsuitable for any reason, it would not be reapproved.

Agriculturists and protectors of wildlife should work together to provide the best management of Montana's land for all forms of life and livelihood. HB 377 would be a good step in that direction.

Sincerely,

March 15, 1983

I would like to express my support for the Non-Game Funding Bill (HB# 377) and urge you to recommend a "DO PASS" from committee and support it on the floor of the Senate.

An ecosystem approach to wildlife research and management is more viable and productive than single species emphasis characteristic of most wildlife agencies today (except those 20 states that have non-game programs). Also, non-game wildlife have in the past, been indicator species reflecting the health of the environment. Many non-game species are sensitive to sub changes in the environment that, if allowed to continue could adversely affect game, livestock, and people. If funding were provided, research could shed some light on the ecological links between non-game, game, and man and potential ecological disasters such as DDT contamination and ENDRIIN poisoning could be detected early and arrested before significant damage was done.

In the mid 1970's the mule deer populations in the west "crashed". If non-game were systematically inventoried and studied, perhaps we would have predicted this decline, and more importantly, averted it. Maybe now we would know why!

Funding for non-game could also shed some light on some pest problems. More information on the ecology and management of ground squirrels or "gophers" eventually may lead to more effective controls thereby benefitting agricultural interests without potential long term damage to people or other wildlife.

I am not an "eco-freak" per se. I served in the Infantry in Vietnam, losing 2 limbs in the process. I accepted induction to facilitate the alleged "preservation of the American way" and I would prefer not to see the interests of the minority (agriculture) prevail by killing HB# 377 in committee before the interests of many are served. I would, as a private citizen, like the opportunity to contribute to non-game research and management.

Thanks for your time.

Alan R. Harmata
4756 Itana Circle
Bozeman, MT 59715