

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 17, 1985

The meeting of the Fish and Game Committee was called to order by Chairman Bob Ream on January 17, 1985 at 3:03 p.m. in Room 317 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HOUSE BILL NO. 2: Representative Jack Sands, District 90, Billings, sponsor of House Bill No. 2, introduced the bill at the request of the Coal Tax Oversight Committee. He stated that this bill deals with the way park money is acquired under the coal tax trust fund formula. Under this formula for the distribution of coal trust funds, five percent is reserved for a nonexpendable trust fund for the purpose of park acquisition of management and protection of works and arts, and other aesthetic projects. Two-thirds of that five percent is to be reserved for park acquisition, that's the way the law was when it was written in 1975. What they are talking about is just a little under \$3 million for the biennium. He stated that in 1979 the original coal trust fund distribution formula was amended to provide that the parks acquired with coal tax money could also use some of that money for operations, maintenance, and development. What this bill does is to expand that for a four year period of time. It says that for a four year period of time, the money coming from the coal tax trust fund may be used for development, operation, and maintenance of any unit of the park system. This bill is necessary because there have been serious pressures developing on our existing park systems in the state. Since 1972 the system itself has grown by 85 per cent to 319 sites. The visitors at those sites have increased since 1977 from 2.2 million visitors to 4.5 million. Because of the way the coal trust fund allocation was made, we have been acquiring sites at a faster rate than we can afford to operate, maintain, and develop them. Representative Sands then shared with the committee, some information provided him by Jim Flynn, Director, Fish, Wildlife, and Parks. This information showed the amounts of coal tax funds that were for parks in various years. He stated that we have been spending a lot more coal tax money acquiring parks than we have general fund revenue or other earmarked accounts. At the same time, we have been spending a relatively small amount of money on development of those parks. He discussed some of these figures with the committee. He stated that a disparity has been developing in our park management program in the state. We are spending a

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lot of money acquiring new sites. That same source of money that is used to acquire those sites has not been available until recently to develop the sites and to operate and maintain the sites. In summary, Representative Sands stated that this bill received the unanimous endorsement of the Coal Tax Oversight Committee and he would urge this committee to pass it.

PROPOSERS: Mr. Jim Flynn, Director of the Department of Fish, Wildlife, and Parks, a proponent of this bill, gave a copy of his testimony to each committee member. (See Exhibit No. 1)

Robert Van Der Vere, a concerned citizen representing himself, stated that the State of Montana has been acquiring lands but has not been maintaining them. He wants to see the funds used for maintaining these lands that we have already acquired.

Hal Price, representing the Montana Wildlife Federation, a proponent of this bill, gave a copy of his testimony to each committee member. (See Exhibit No. 2)

No further proponents spoke in favor of this bill, and there were no opponents to House Bill No. 2.

Janet Ellis, representing the Montana Audubon Council, stated that the Council neither supports nor opposes House Bill No. 2. She stated that the Council wants to go on record, reminding the Department of Fish, Wildlife, and Parks that House Bill No. 2 carefully allows the continued use of coal tax money for acquisition of park sites. (See Exhibit No. 3)

DISCUSSION OF HOUSE BILL NO. 2: Representative Jenkins asked Representative Sands if there was any change in the funding. Representative Sands said there would be no change in the funding.

Representative Rapp-Svrcek asked Representative Sands if there was a moratorium on acquisition provision in this bill. Representative Sands replied that there was not a moratorium provision in this bill.

Representative Ellison asked Mr. Flynn what he saw as a long term solution to our problem of acquiring parks at a faster rate than we are able to maintain them. Mr. Flynn replied that the long term solution is House Bill No. 2.

Representative Jenkins asked Mr. Flynn that if this bill

did pass, would they then not use the general fund for operating and maintaining parks. Mr. Flynn replied that they would still utilize the general fund for operation, maintenance, and development; but their concern is that they will not be able to increase the general fund revenues in future years and this source will not be enough to continue to operate, maintain, and develop the parks. This bill would help supplement the general fund.

Representative Cobb asked Mr. Flynn if the moratorium was for two or four years. Mr. Flynn stated that this is not referred to as a moratorium. This bill would give his department the flexibility to use the funds for more things and what they have proposed in their budget for this next biennium is not acquiring any more sites.

Representative Ream asked Mr. Flynn that if in the present budget they have proposed no new acquisitions. Mr. Flynn replied that that was correct. Representative Ream stated his concern about this and wondered if there was any other mechanism for acquisition if they have a real bargain that comes along. Mr. Flynn stated that they may have some other avenues to use in acquiring land that would not go directly through his department.

Representative Jenkins asked Mr. Flynn if they are still open to use some of the coal tax funds for acquisition of land should some bargain come up. Mr. Flynn replied that they are not open to use the funds for acquisition. He stated that the funds in his department are allocated specifically per project. He stated that it is very specific on what they can acquire, and those decisions are made by the Legislature.

Representative Pavlovich wanted to know if the avenue of acquiring land that the Department might have, was RIT money. Mr. Flynn commented that he hesitated to even bring that up because they are in a grey area here. He stated that it is his understanding that perhaps some of the RIT and RRD money may be put into a legacy fund and some of this money at some time might be used to acquire park land.

Representative Cobb asked Mr. Flynn if in the next two or four years they are going to plan on increasing user fees, and then use these fees on present sites. Mr. Flynn replied they plan to institute a user fee program on some of their sites.

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Representative Hart asked Representative Sands how they happened to come up with the four year figure. Representative Sands replied that it was not scientifically done. The bill did not originally have a four year limitation, one of the committee members suggested that it have a four year limit of time. Representative Hart then asked Representative Sands that if in four years there would be another review. Representative Sands replied that he would anticipate that there would be a review at that time.

Representative Pavlovich asked Representative Sands if he would object to changing it from four years to two years if it was amended. Representative Sands stated that the Coal Tax Committee discussed this and they seemed to think that four years was a reasonable time to give the new approach to work.

Representative Ellison asked Mr. Flynn that if this was limited to two years, would that allow his department time to catch up on improvements of these parks. Mr. Flynn replied that he could not honestly answer that. He said that in the budget proposal they have before them now, they have done some planning into the following biennium and they would still need the following biennium without acquisition in order to get the job done and measure the results. They are comfortable with the four year time period.

Representative Eudaily stated to Representative Sands that in reading the new language on page three you are using this for four years for acquisition, development, operation, and maintenance. In the other section where it reverts back to 1989 the word development has been left out. Representative Eudaily wanted to know why the word development was left out. Representative Sands and Mr. Flynn both felt that the word development should be added in an amendment.

Representative Ream asked Mr. Flynn if the acquisition is before the long range planning committee and if the Legislature in its wisdom decided that they wanted to acquire, do they also have a priority list of acquisition sites. Mr. Flynn replied that the way this coal tax acquisition program works, is that it is a program that has been set up for some time and what they do is get some proposals from the public for projects. The law that is in effect now, still operates under the acquisition program.

There being no further questions, Representative Ream asked Representative Sands to close. Representative Sands stated

that he would just like to make one comment about Representative Eudaily's comment. He stated that the reason development wasn't written in the bill is because the purpose of the statutes was to apply after 1989 and right now the word development isn't in there, however, he agrees with Representative Eudaily that it should be in there.

There being no further discussion on House Bill No. 2, the hearing was closed.

CONSIDERATION OF HOUSE BILL NO. 39: Representative Ellison, District 81, McLeod, sponsor of House Bill No. 39, stated that there was an amendment going around. (See Exhibit No. 4) He said that he introduced this bill last session, but it was amended in committee to what he thought was unacceptable so he moved that the bill do not pass. So he thought he would try one more time in view of the Supreme Court decision on stream access to get this bill through.

PROPOSERS: Chuck Rein, on behalf of the Sweet Grass Preservation Association testified in favor of House Bill No. 39. Written testimony was handed out to all members of the committee. (See Exhibit No. 5)

Bob Gilbert, representing the Montana Woolgrowers Association, said that they had supported this bill every time it had been introduced, and support it again.

Alan Eck, representing the Montana Farm Bureau Federation, said that the Farm Bureau supports this bill. (See Exhibit No. 6)

Stuart Doggett, on behalf of the Montana Stockgrowers Association and the Association of State Grazing Districts, spoke in favor of this bill. (See Exhibit No. 7)

Mike Micone, with the Western Environmental Trade Association, stated that his organization supported this bill two years ago and they support it again.

Robert Van Der Vere, a concerned citizen, stated that he has listened to them try to get the landowners and sportsmen together for the last twenty years. He would like to see this bill pass.

Jim Flynn, Director of the Department of Fish, Wildlife, and Parks, a proponent of this bill, gave a copy of his testimony to each committee member. (See Exhibit No. 8)

Josephine Lahti said she approved of the bill but wanted to know what the penalty is if you do catch someone. Represent-

tative Ream replied that it was not addressed in this part of the codes but it is covered elsewhere.

There were no other proponents.

OPPONENTS: Dan Heinz, representing the Montana Wildlife Federation stated that although they registered as opponents, the MWF is certainly not opposed to the concept of this bill, however, they do have some concerns about the implications of this bill if it were to be passed as presently written. (See Exhibit No. 9)

There were no other opponents.

DISCUSSION OF HOUSE BILL NO. 39: Representative Rapp-Svrcek asked Mr. Rein as a landowner, if he could address the concern that Mr. Flynn has regarding the notification of trespass. Mr. Rein stated that the landowners are in many ways burdened with the people coming on their land to hunt and fish. He does not feel that posting should be his responsibility.

Representative Phillips wanted to know if there is a general statute in the codes on trespass. Representative Ellison said that yes there is a statute, and there are several problems with that statute. Representative Ellison noted to the committee a couple examples of these problems. Mr. Flynn said that they have difficulty with different parts of the current statutes. He stated that he would like to see the legislature give them certain authorities on problems that they can respond to concerning trespass.

Representative Montayne asked Mr. Flynn what would happen if it said No Hunting period. Mr. Flynn said that it is a real mixed bag and they have to handle each trespass according to the laws and circumstances. He stated that he is hoping through this Legislative session to see some consistent rules concerning all these problems.

Representative Grady asked Mr. Heinz to elaborate more on a statement in his written testimony. Mr. Heinz stated that the big difference between big game hunting and water fowl hunting is potential for damage to the landowner or his property. He said that many wet lands are poorly marked, even though big game hunting takes place in marsh lands also, most of these wet lands may not be as severely damaged. (See Exhibit No. 9)

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Representative Pavlovich asked Researcher Dave Cogley, that if this passed wouldn't it have a problem with the Supreme Court decision on stream access. Mr. Cogley replied that the purpose for the amendment was to take into account the Supreme Court holding as embodied in House Bill 16. He stated that the way he thought it was drafted, it would accomodate the Supreme Court decision.

Representative Rapp-Svrcek asked Mr. Cogley if the amendment was written loosely enough to pertain or be applicable to other bills concerning this. Mr. Cogley replied that no, it is impossible to write it to apply to other bills.

Representative Jenkins asked what would happen to the persons right who leases ground. Representative Ellison said it would depend on the type of lease that you hold. In some leases you have control of the land and in other leases you don't.

Representative Montayne asked the landowners if they would like to see hunting and fishing completely taken off their property--100%. Representative Ellison replied that no, he would not like to see it taken off 100%. He allows hunting and fishing on his land; he would just appreciate if the people would ask.

Representative Grady asked Mr. Flynn if he felt that his department could handle the law enforcement with the people now on his staff, should this law pass. Mr. Flynn replied that it would be difficult to answer. He would assume that they would not have to because he does not think there are that many involved in trespass today, so it would not make that much difference.

There being no further committee questions, Representative Ream asked Representative Ellison to close. Representative Ellison commented in closing that the penalties may seem too severe, but in most cases the judges have a wide range in which to act. He also stated that every year you see more and more land being posted No Hunting, period. He said he felt something had to be done so all private land is not closed to hunting.

The hearing on House Bill No.39 was then closed.

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EXECUTIVE SESSION: Representative Ream opened the executive session by passing out several statements which were received in the mail and one which was received by phone. (See Exhibits 10, 11, 12, 13, 14, 15 and 16)

Representative Ream announced to the committee that they would meet in joint session with the Judiciary and Agriculture committees next Tuesday evening, January 22, 1985, in the old Supreme Court Chambers to hear three stream access bills.

HOUSE BILL NO. 91: Representative Rapp-Svorcek stated that he had an amendment to offer. (See Exhibit No. 17)

Representative Grady moved that the bill DO NOT PASS. Representative Eudaily seconded the motion. Discussion followed. Representative Rapp-Svorcek made a substitute motion of DO PASS and offered an amendment that he said might clear up some of the problems of the bill. Representative McCormick seconded that motion. Representative Rapp-Svorcek made a motion to amend House Bill No. 91, seconded. He briefly described the amendment. (See Exhibit No. 17) Committee discussion followed. A vote was then taken on the amendment. The amendment was not adopted. A vote was then taken on the substitute motion, DO PASS. The substitute motion did not pass. Representative Ellison then moved that they just reverse the vote on the original motion. It was seconded and carried. House Bill No. 91 received a DO NOT PASS vote.

HOUSE BILL NO. 93: Representative Ellison moved that this bill DO PASS. Representative Phillips seconded it. Representative Eudaily then stated that he would like to offer three short amendments. 1. Page 1, line 4, delete the word "requiring" and put allowing 2. Page 1, line 5, strike "allow" and put permit 3. Page 2, line 2 reinstate the words "have authority to". The amendment was moved and seconded. There was no further discussion. The amendment motion carried. Question was called. A voice vote was taken. House Bill No. 93 received a DO PASS vote as amended. (No vote--Representatives Pavlovich and Moore.)

HOUSE BILL NO. 2: Representative Phillips moved that House Bill No. 2 DO PASS. Representative Ellison seconded the

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the motion. Representative Eudaily said he would like to make a small amendment on page 3, line 15, following "the", insert "development,". Researcher, Dave Cogley, said it was fine to vote on that concept, but what they were doing was reverting to the original language that was in the subsection with the inclusion of the word development. He would propose that if they vote affirmative on this concept that they change the language. Otherwise, there are two time periods and it would be much cleaner to make just one statement to that effect. There was much further committee discussion. Mr. Cogley stated that he would like to amend what he just said. Representative Ream stated that he would appoint the following committee members to a subcommittee to study this amendment further: Representatives Pavlovich, Eudaily, Rapp-Svrcek, and Grady. Representative Eudaily will chair this subcommittee.

There being no further business before the Committee, the meeting was adjourned at 4:58 p.m.

Bob Ream

BOB REAM, Chairman

DAILY ROLL CALL

Fish and Game COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-17-85

[illegible]

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

January 17, 1985

The Department of Fish, Wildlife & Parks supports the passage of HB 2.

The Montana Parks System is at a stage in its history which might be considered a crossroads of some importance. Revenues from Montana's Coal Severance Tax play an important role in the parks system. The passage of HB 2 will allow us to improve the system in ways which will provide improved economic, as well as cultural and recreational, values for Montanans.

Let me share with you my perception of the current situation.

It can be said that Montana's Park System is, in reality, two sub-systems - each with its own set of conditions which require attention.

On one hand we have a category of sites which are funded by a variety of earned revenue sources such as Fish and Game license funds, the Motorboat Fuel Tax, Parks earned revenues, the Coal Tax, and miscellaneous others.

On the other hand, we have a category of sites which must be funded primarily using General Fund expenditures because they are not eligible for support from the other earmarked sources.

On the General Fund side of the ledger appear many of our oldest, most important and popular sites such as Bannack, Lewis and Clark Caverns, Lone Pine at Kalispell, Lost Creek near Anaconda, Medicine Rocks near Baker, and Chief Joseph Battleground near Chinook, and a number of others throughout the state. These are mostly land-based parks and historic monuments.

The State General Fund, upon which these sites largely rely for operations and maintenance, is receiving intense pressure from all agencies, and the recent past shows the following track record for Parks operations:

Since 1972, General Fund has gone from 38% of the total Parks operations budget to 25% in 1984. If the Executive Budget is adopted for the upcoming biennium, that share will shrink to 17%. The budget proposal anticipates the passage of HB 2.

The appropriation was about \$277,000 in 1972; rose to a high of \$713,500 in 1983; and was reduced to \$628,500 in 1984. It will be further cut to \$624,730 in fiscal 86-87 under the present executive proposal. In real buying power, since 1972 the General Fund has increased only 48% while the Parks System has grown 85% to 319 sites (FTEs have grown only 37%).

Since 1977 (when we began to record visitor information), Parks visitation has grown from 2.2 million visits to 4.5 million visits in 1983.

It is evident when considering system growth, visitor and inflationary pressures that reliance on the State General Fund for operations and maintenance is not going to produce the necessary resources for Parks System operations. Again, it has been the land-based parks and state historic monuments which do not benefit from other revenue sources which suffer the most.

Additionally, the Parks System relies heavily on Federal Land and Water Conservation Fund for new acquisitions as well as for development. This dependence has its own shortcomings as evidenced by the federal actions in 1981 when appropriations were rescinded and in 1982 where no appropriations were made. The future of this funding source is very much in jeopardy because of the federal deficit problem.

In reviewing the other category of sites - those supported by earned revenue sources - we have the Coal Tax Parks areas. This category is funded in part by the Coal Tax which has the potential to be more reliable than either the General Fund or the Land and Water Conservation Fund. However, the Coal Tax Parks program has its own set of complications.

At the outset, the Coal Tax Parks program was only for acquisition. As a result, a number of new sites came into the Parks System. While these acquisitions were noteworthy and of value, a problem soon arose in that money was not being appropriated from the General Fund for maintenance and development.

As a result, the law was amended to allow the use of Coal Tax funds for maintenance and development of only those sites acquired with Coal Tax funds. Even with the law changed the reality is that the Coal Tax revenues are heavily used for acquisition and lightly used for maintenance and development.

As an example, the following shows the Coal Tax expenditure over the past four bienniums (FY 78-FY 85).

Acquisition	\$3,931,239
Development	519,575
Maintenance	<u>1,292,409</u>
	<u>\$5,743,223</u>

From these examples, it can be shown that our State Parks System is at a crossroads. It is becoming apparent that we are acquiring sites at a rate that exceeds our financial ability to properly develop and maintain them. This is evidenced by the recent legislative audit report. We have a program which is presently limited in two major ways.

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1. A dependence upon the General Fund which is shrinking in comparison to the rest of the budget, and
2. A bottom line which is held at roughly current level while the System continues to expand.

The resulting squeeze is felt most severely in those areas which must rely on General Fund appropriations.

The fiscal 86-87 Executive Budget proposal, which depends upon passage of HB 2 addresses both problems. Without it, the problem can be expected to grow. The Parks System is experiencing increased usage, and with the strong public support for the visionary acquisition programs (Coal Tax and fishing access sites), the number of areas, and the acreage to be maintained will also grow. At the same time, less and less money will be available for the operation of the system on a per-visitor, per-site, or per-acre basis. It is apparent it is time to consider ways to mitigate these circumstances using the resources we have at hand.

Making all sites in the Parks System eligible for funding from the Coal Tax would immediately relieve the pressure on those sites presently suffering from the lack of General Fund support. It would also give the Department the flexibility to augment the sites in the other earmarked programs (such as motorboat sites), giving the agency the flexibility it needs to address public and facility needs based upon real need rather than inflexible funding criteria.

The funding sources for the operation of the Parks System should center on the Coal Tax rather than the General Fund and on a combination of Coal Tax and Federal Land and Water Conservation Funds for development.

In addition, a concentrated effort should be made to fully develop our present system before major new sites are added. Our capital expenditure requests in the long-range building program do just that.

We are recommending that the 1985 legislative session consider acquiring no new sites with the Coal Tax revenues but authorize those revenues to be spent for development of present park sites.

A number of attractive sites are available and it will be difficult to turn them down, but I believe to do so at least for the time being is in the best interest of the program.

When present sites are developed, the State could then embark upon an acquisition and development program which is balanced and reliably funded.

We would have a Parks System which is adequately developed, operated, and maintained.

The present course of action is prone to growth without adequate development, operation and maintenance, and a funding base which is not growing in relation to the need and which is too inflexible to address our high-priority problems. Its result is a fairly comprehensive land mass and a variety of recreational opportunities; but in many key places, the quality is lacking.

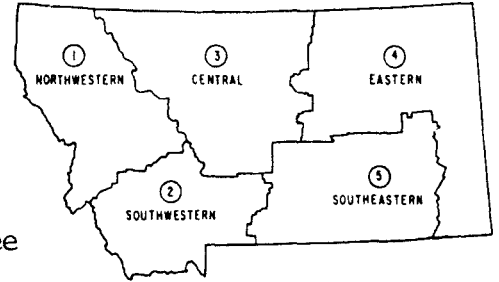
Expenditures to improve the Parks System are investments which will provide substantial returns in the form of tourism revenue for the State. To maximize the values parks resources represent, we must provide facilities and opportunities which will encourage tourism, one of the mainstays of our economy.

As I mentioned at the outset, we are at a crossroads, and it is our recommendation that a change in direction is in order. Passage of HB 2 will give us the tools to do the job. It does include a sunset provision which will allow the legislature to use the four years it provides to demonstrate the wisdom of this course of action. We can review the accomplishments after four years and make a judgment about the future at that time.



Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



Testimony presented to the House Committee
on Fish and Game on HB2-Sands

Mr. Chairman, members of the committee. My name is Hal Price and I represent the Montana Wildlife Federation. Our organization, which consists of 17 sportsmans clubs throughout the state and over 4000 members, is keenly aware of the need for a sound system of well maintained state parks. We are especially interested in seeing that the state parks which we now enjoy are developed to at least a minimal level and maintained in a manner worthy of Montana.

In addition to providing recreation and relaxation for all of us who live here, our state parks are an important item on the long list of attractions that brings visitors from around the nation to Montana. Tourism is very important to our state's economy. When tourists come to Montana we want them to be pleased with their visit and come again. There is probably no better way to accomplish this than to see that the parks they visit are places that they can enjoy and we can be proud of.

We support HB2 because we believe that it provides flexibility to the state parks program which is timely and needed. Thank you.

Montana Audubon Council

Exhibit #3

1-17-85

HB #2

Testimony on HB 2
January 17, 1985

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Council.

The Council neither supports nor opposes HB 2. We would like to go on record, however, reminding the Department of Fish, Wildlife & Parks that HB 2 carefully allows the continued use of coal tax money for acquisition of park sites. We want it made clear that development of parks should not replace site acquisition for the next four years.

Valuable sites that will be important to the State are often offered to the State for a limited time only. If such a site is presented to the Department for acquisition it is critical for the Department to act on that site.

We feel that it is important for the Department to be reminded of their commitment to the people of Montana with their park acquisition program.

Thank you.

House Bill 39 -- Amendment

1. Page 1, line 13.
Following: "(1)"
Strike: "Every"
Insert: "[Except as provided in [sections 2 through 4 of House Bill 16]], every"
2. Page 1.
Following: line 24
Insert: "NEW SECTION. Section 3. Coordination instruction. The bracketed language in section 1, amending 87-3-304(1), is effective only if House Bill 16 of the 49th Legislature is passed and approved, and is effective concurrently with House Bill 16."

Exhibit #5
1-17-85
H.B. 39

Members of the committee, my name is Chuck Rein. I am testifying in favor of H.B. 39 on behalf of the Sweet Grass Preservation Association as well as my own interests as a landowner who owns property around and over which the Sweet Grass Creek flows.

As a member of the agricultural community who allows both hunting and fishing on my property, I am impacted more by the lengthy five month fishing season than by the five week general big game hunting season.

First of all, since four miles of the Sweet Grass runs through my property as well as close to my house, corrals and other outbuildings any use on that water impacts me more directly than the use of my upland property for big game hunting.

Secondly, since the public has the right to fish, trap, hunt birds or non game animals virtually year round, the majority of which is done on private property, without permission, my legal options are severely limited should a problem arise from any of these activities. Two of these problems may include prescriptive easement and liability.

Thirdly, as an act of genuine concern the Department of Fish, Wildlife and Parks last fall erected billboards and issued bumper stickers saying "Ask First!! To Hunt and Fish on Private Land" to promote good landowner-sportsmen relations.

Members of the committee I submit to you that this bill is an attempt to remedy a festering situation which can only end in no access and bad landowner-sportsmen relations, neither of which is a desirable solution to the problem.

**ASK FIRST!!
to Hunt & Fish on Private Land**

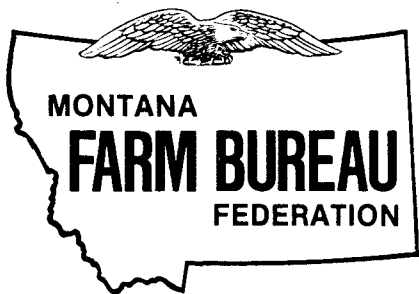
Exhibit #5
p.2
1-17-1985

2

Testimony Before the House Fish and Game Committee
1/17/85

I hope you will consider this testimony carefully and pass H.B. 39 in its original form.

Thank you.



502 South 19th

Bozeman, Montana 59715

Phone (406) 587-3153

Exhibit #6
H.B. # 39
1-17-85

TESTIMONY BY: Alan Eck, Montana Farm Bureau Federation.

BILL # HB-39

DATE 1/17/85

SUPPORT XXXX

OPPOSE _____

Mr. Chairman and members of the committee:

For the record my name is Alan Eck and I am representing the Montana Farm Bureau Federation. The Farm Bureau is supportive of this bill because we feel it will enhance the landowner's ability to manage who comes on to his property. Most hunters and fishermen are respectful to private property, but the few that aren't can destroy good management practices and the relationship between landowners and sportspeople. House Bill 39 reinforces the fact that landowners and recreationists can both exist if there is respect and cooperation. For these reasons the Montana Farm Bureau asks for a do-pass recommendation.

Alan Eck
SIGNED

— FARMERS AND RANCHERS UNITED —

MONTANA ASSOCIATION OF STATE GRAZING DISTRICTS

420 North California St.

Helena, Montana 59601

Exhibit #7
HB # 39
1-17-85

Stuart H. Doggett, Executive Secretary/Treasurer

Phone (406) 442-3420

January 17, 1985

TESTIMONY HOUSE BILL 39

Mr. Chairman, members of the Committee, for the record my name is Stuart Doggett. I am speaking today in support of House Bill 39 on behalf of the Montana Stockgrowers Association, ^{and} the Association of State Grazing Districts.

~~_____~~

Our support for House Bill 39 is directly related to the resolutions that were passed at the most recent annual meetings of the Montana Stockgrowers and the Association of State Grazing Districts. These two organizations both adopted resolutions which asked for legislation to change existing law and require all those who seek recreational activity on private lands to have permission from the landowner before entering private property. For example, the resolution adopted by the Montana Stockgrowers Association at their Centennial Anniversary, specifically requested legislation from the 1985 session and states "The Montana Stockgrowers Association supports legislation during the 1985 session which will require all anglers, hunters and sportsmen of any game, predators, or varmints to have permission from the landowner prior to entering upon private property."

Our organizations supported a similar bill on the 83 session and have long felt that recreationalists of any type should be required to seek landowner permission, for not only big game hunting but ~~also~~ ^{hunting or fishing} for the ~~animals~~ of any wild animal.

HB 39

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

January 17, 1985

We appear today in support of the concepts outlined in HB 39, but must acknowledge a concern with a result of the bill which will occur with its passage.

At the outset, the expansion of trespass from big game hunting to fishing, trapping and hunting in general would appear to be in order.

This is a concept we support.

In addition, the requirement that permission is necessary to use private land is a concept we support.

However, the concern comes with the question, "How does one know when he or she is on private land and whose private land is being used?"

It is the user's responsibility to know the landownership and where the boundaries lie; there is little question about that.

However, with intermixed public and private lands and with areas of no discernible boundary lines even between private lands, the situation exists throughout our state for trespass to occur unknowingly.

This is the focus of our concern, and it is a difficult concern to overcome.

We have considered such legislation as a department in the past. We have been unable to overcome the question of what is a reasonable notice to the public from the landowner with regard to the ownership of the land.

I regret that we have no better answers today than we have had in the past. We have attempted to define reasonable notice or reasonable signing; we have attempted to define exceptions for private land bordering public land, as well as other approaches. None, to date, would seem to meet the test of reasonableness for both landowners and users.

I would point out that in our discussions with sportsmen throughout Montana on this subject the same comments recur - agreement with the expansion, agreement with getting permission, and concern for the unknowing trespass resulting from lack of definable or known boundaries.

The current law applies to a certain number of users who are big game hunters and we ticket violators each year who, in reality, have unknowingly trespassed on private land. Many of them know the law, have intended to obey the law, and yet have violated it.

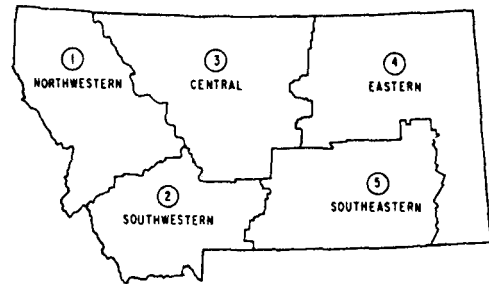
HB 39 will greatly expand the number of users to which the law will apply. As a result, the question of notification becomes one of greater consequence.

As I stated at the outset, the concepts of HB 39 are concepts we support and subscribe to. We are prepared to work with this committee should you wish to work on the question of notification.



Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



MONTANA WILDLIFE FEDERATION

TESTIMONY ON HB 39

January 17, 1985

Mr. Chairman, Members of the Fish and Game Committee:

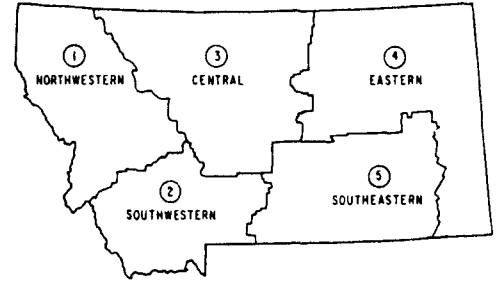
My name is Dan Heinz and I'm here today representing the Montana Wildlife Federation. Let me start off by saying that, although we registered as opponents, the MWF is certainly not opposed to the concept of this bill, since my organization strongly advocates asking landowner permission to enter private land for any reason, particularly for the privilege of hunting. We do, however, have some concerns about the implications of this bill if it were to be passed as presently written.

Before your committee takes action on HB 39, the MWF would request that strong consideration be given to reassess its penalty provisions. Specifically, we would request that fines or other penalties for bird hunting trespass not be nearly as severe as for those that presently exist for big game hunting. Certainly, shotgun hunters do not pose the same risk or threat to landowners as do people with high-powered rifles. As such, we do not feel that a person hunting, for example, in a wetland area where property boundaries are hard to identify, and therefore unknowingly crosses on to private land, should be subject to the same penalties as an inconsiderate big game hunter who drives through or cuts a fence to enter private property. We're concerned that by simply changing section 87-3-304 to include "all hunting, fishing, or trapping"



Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



brings forth the potential for unreasonable penalties.

It is also our understanding that part of the intent of this amendment is to enable game wardens to investigate trespass complaints about all types of hunting violations and not just violations associated with big game hunting. The MWF is again in favor of this concept, but we would ask this committee to closely examine the amount of additional time that Fish and Game wardens would potentially spend on these new duties. We would hope that this additional workload would not unreasonably dilute their efforts to investigate other more critical hunting violations. We're concerned that the passage of HB 39 could potentially increase the wardens' workload too much and therefore, may actually be counter productive to the needs of landowners and sportsmen alike.

Thank you for allowing the MWF to express its views on this matter.



To: Representative Bob Ream, House Fish & Game Committee Chairman.

From: Glen N. Gray, Representing the Northwestern Montana Houndsman Association with representation in Regions One and Two.

Subject: Testimony on H. B. 91

Date: January 9, 1985

We support running bear with hounds in a nonconsumptive manner with the exception that hounds may be used to alleviate degradation, damage, nuisance or other kinds of problem bears on request by the Department of Fish, Wildlife and Parks. Without these specific restrictions included in the bill both the sport of hunting and the stability of the bear population will be jeopardized. We therefore oppose the bill in its present form.

Justifications for these statements are as follows:

1. Interest and participation in the spring bear hunt has increased at an alarming rate. Many wildlife biologists and other D.F.W. and P. officials are already concerned about over harvests in some districts. Hunting with hounds is unique in that a hunter can participate in the sport without consuming the resource and the consumptive aspect is therefore neither necessary nor desirable.

(2)

2. Montana is a state with a large group of outfitters. At the present time relatively few participate in hunting with hounds. There are also many houndsmen living out of state just waiting for Montana to legalize taking bear with hounds. When and if that happens the number of houndsmen in Montana will increase dramatically. The increase in houndsmen will devastate the healthy population of lion we now enjoy in many areas and jeopardize the stability of the bear population.
3. Officials from the states of Idaho and Washington have indicated that nearly all of the problems associated with hunting with hounds originate from outfitting bear hunters and that few problems occur from just sport hunting. The state of Vermont outlawed the guiding of hunters for bear in that state two years ago. The New Hampshire Bear Hunters' Association passed a motion to stop the guiding of hunters in the pursuit of taking bear. Restricting the hunting of bears with hounds to chase only will eliminate the commercial exploitation problems experienced by other states.
4. House Bill 91 in its present form does not represent the best interest or wishes of the houndsmen in Regions One and two. Region One and two would be the area most impacted due to the concentration of the states bear population within these regions. Passage of H.B. 91 in its' present form would provide an annually reoccurring threat that the D.F.W. & P's could institute a consumptive hunt.

In conclusion, H.B. 91 represents an effort by a very small proportion of houndmen in the state to commercially exploit the black bear in Montana with total disregard for the sport of hunting with hounds or the bear resource. We encourage you to vote no on this bill or to add the restriction that hunting bear with hounds shall be in a nonconsumptive manner only.

Thank You

Allen N. Gray

Director, Region One, Montana Hound Assoc.

President, Northwestern Montana Hound Assoc.

Exhibit #11
1-17-85
HB # 91

RR 4386
Great Falls, MT
59401

January 16, 1985

Rep. Bob Ream
Chairman
House Fish & Game Committee
Capitol Station
Helena, MT 59620

Dear Rep. Ream;

Please oppose HB 91 now before your committee. This bill, which would authorize the use of hounds when bear hunting, would severely damage the bear population and reduce the hunting opportunities of Montana hunters. It would also eliminate the chance the non-hunting public now has to observe bear outside the national park system.

Each year, bear hunting is becoming more popular in Montana. This is probably because of the restrictions against the use of hounds. The taking of a bear is the result of a hunters skill rather than the ability of his dogs to follow a trail. The comparatively low black bear population of Colorado shows one of the results of hound hunting.

About the only people to benefit from the use of dogs when bear hunting would be the outfitters and houndsmen. The rest of us, average hunters, and especially the bear would be worse off.

Let's keep Montana unique. Where hunting success is the result of skill or chance and doesn't depend on our ability to shoot a bear that is resting thirty feet up a pine tree after it was run down by some dogs.


Craig L Larcom

ALLOWING HOUNDSMEN TO HUNT BEAR IN MONTANA:
REASONS THIS BILL SHOULD BE OPPOSED

NO ADEQUATE POPULATION DATA

Currently the Dept. of Fish, Wildlife & Parks (DFWP) is asking the 1985 Legislature for money to study black bear populations. Some populations of these bears in the state may be in trouble due to overharvesting by hunters. But the DFWP DOES NOT KNOW which populations could withstand more hunting pressures and which populations need less pressure. THE INFORMATION IS NOT AVAILABLE.

GRIZZLY BEARS SHOULD NOT BE HUNTED

Because of their threatened status, grizzly bears should not be hunted by hounds. Houndsmen admitted that it is sometimes impossible to distinguish between grizzly and black bear tracks. Currently only 25 grizzly bears may be taken each year.

RUNNING BEARS WITH HOUNDS

NO STUDY has been done to determine the effect of running bears with hounds. Bears do not normally run for long periods at a time. Even if animals aren't killed by hunters with hounds, the bears may suffer because of exhaustion.

HUNTING IN THE SPRING

According to a DFWP bear biologist in Libby, black bear are losing weight through June of each year. They do not start to have a stable weight until June - mainly because they haven't eaten all winter. Spring would not be a good time of year to hunt bear with hounds - they can't afford a long chase because of their weakened condition.

HUNTING IN THE SUMMER

Houndsmen admitted that they cannot keep their hounds controlled enough to keep them off posted land - or land with livestock - if the hounds were "on a trail." With the current problems between sportsmen and landowner relationships, there is no need to create more problems.

HUNTING IN THE FALL

In the Fall bears are feeding heavily to put on extra weight for the winter. A stressful run could mean the difference between having enough fat stored for the winter and not having enough fat: BUT NO ONE REALLY KNOWS. The Fall is also the time when other hunters are out - the conflict between houndsmen and other sportsmen is a risk not worth taking.

SOWS WITH CUBS

It is illegal to hunt and kill a sow bear with cubs. Black bear females keep their cubs with them for 1½ years. A study done in Maine showed that in four out of five times that hounds chased sows with cubs, the cubs were treed early in the chase and the sows took the dogs further along in the hunt. That means that in only one out of five hunts on sows, the cubs were seen. There is hence no guarantee that a single bear found is not a sow with cubs.

At present there is no need to add bear to the species huntable with dogs. There are several reasons, however, not to add bear to this list: VOTE "DO NOT PASS" ON HB 91.

Montana Wildlife Federation

107 W. Lawrence

Helena

Thompson

Exhibit # 13

1-17-85

H.B. # 91 & 93

Mike Huschle
P. O. Box 30492
Billings, MT 59107

Bob Ream
Chairman of Fish & Game

Dear Sir:

I would appreciate your
vote in favor of hunting
Bear and Lynx with hounds.
Please vote yes for House
Bills 91 and 93.

Thank you
Sincerely

Mike Huschle

Jan 13, 1985

Exhibit #14

1-17-85

HB #93

Dear Mr. Reame,

I enjoy using hounds to hunt coons and cats. I would like to be able to hunt bear with the use of hounds in Montana.

With the proper regulations set by the Montana Dept. of Fish, Wildlife and Parks Dept. the hunting of bears with hounds can be biologically sound and enjoyed by Montana houndsman.

I hope your committee will pass HB 91.

I would also like to see lynx added to the list of animals that can be taken with hounds. The taking of lynx is already on a quota system and can be properly regulated by the Dept Regulations. Please pass HB-93.

Thank-you

Gary Huckle
Roy, MT 59471

1-17-85

H.B. #91

RGB

DEVELOPMENT

Suite 210, Glacier Bldg.
111 N. Higgins Ave.
Missoula, Montana 59802
(406) 721-4614

January 15, 1985

MR. Robert Ream
Capital Station
Helena, Montana

RE: House Bill 91

Dear Bob:

I would like to endorse a bill that provided for the sport of chasing the bear and not necessarily the the consumptive taking of bears. If after further analysis by the Fish and Game there were designated areas for the consumptive taking of bears due to what ever conservation methods and practices were required, I would be in favor of this as well. It is my belief that the Houndsmen of the State of Montana are more interested in the pursuit of the bear and the training of the hounds than in the actual taking of the bear.

The time and the areas which could be designated as allowable for a chase season could be coordinated with some of the obvious problems that have surfaced at this time.

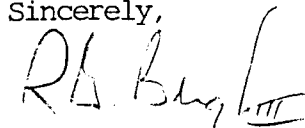
One possible benefit of the chase could be to control some of the bears that have grown too close to man and his environment.

I do hope that some sort of compromise can be reached to allow the Houndsmen of the State of Montana to enjoy the time honored sport of the chase as so many of our neighboring states enjoy in the Rocky Mountain Region.

Please distribute this letter to the other members of the committee.

Thank you again for your time and attention to this issue.

Sincerely,



Robert G. Brugh III

TO: Chairman Bob Ream and Fish and Game Committee Members.

TESTIMONY received from Paul Johnson by phone. 9:05 a.m.
January 17, 1985.

Mr. Paul Johnson stated that he is a Montana big game hunter and he is opposed to House Bills Number 91 and 93 for the following reasons:

1. He objects first of all to hunting these predator animals purely for sport. He does not believe that the rational that hearing dogs howl is ample justification for amending the statutes which have worked well so far.
2. By amending these statutes, very few people threaten a wildlife resource which provides pleasure for many.
3. He feels that these predators are necessary components of Montana's wild eco system and should not be harried and bullied for sport.

Paul Johnson
443-1010 ext. 224

Exhibit #17
1-17-85
H.B.# 91

House Bill 91 -- Amendment

1. Page 1.
Following: line 14
Strike: lines 15 and 16
Insert: "(1) hunt, pursue, or chase bear with the aid of dogs
during such seasons as are set by the commission;"

WILDLANDS & RESOURCES ASS'N

Great Falls, MT

January 21, 1985

Exhibit #18
1-17-1985
H.B. #39

H B 39

Bob Ream, Chairman
House Fish & Game Committee
Capitol Station
Helena, MT 59620

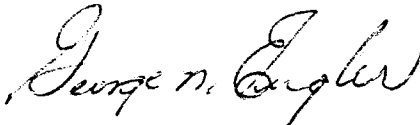
Dear Bob,

At a regular meeting of the Great Falls Wildlands and Resources Ass'n on January 17, we went on record as opposing HB 39, which extends the requirement to obtain land owner permission to hunt Big Game to hunt birds and to fish.

Although it is a common courtesy to obtain permission for these activities, where the land owner is readily available, it is not remotely possible to obtain permission in many cases. This Bill would work a hardship on both the sportsman and the landowner. It would require an inordinate amount of law enforcement to make it effective, and it would cloud the issue of stream access which is already the subject of other proposed legislation. This is a bad Bill. It should be killed.

We support the present requirement of obtaining landowner permission to hunt Big Game.

Sincerely,



George N. Engler
for Patty Busko, Pres.
Wildlands & Resources Ass'n
5414 4th Ave. South
Great Falls, MT.

VISITOR'S REGISTER

HOUSE FISH AND GAME COMMITTEE

BILL NO. 2

DATE 1-17-85

SPONSOR SANDS

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE FISH AND GAME

BILL NO. 39

DATE 1-17-85

SPONSOR ELLISON

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.