

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

February 7, 1985

The meeting of the Fish and Game Committee was called to order by Vice Chairman Orval Ellison on February 7, 1985, at 3:20 p.m. in Room 317 of the State Capitol.

ROLL CALL: All members were present with the exception of Representatives Ream and Jenkins who were excused by the Chairman.

CONSIDERATION OF HOUSE BILL NO. 581: Representative Norm Wallin, District 78, Bozeman, sponsor of House Bill No. 581 stated that it was an interesting bill because it would authorize the Department of Fish, Wildlife, and Parks to issue avicultural permits for the taking of migratory game birds for propagation purposes. He urged the committee to pass this bill and said there were several proponents present.

PROPOSERS: Dale W. Schendel, an aviculturist from Bozeman, stated that Representative Wallin had carried this bill on his behalf. He handed out written testimony to all committee members. (See Exhibit No. 1)

Bill Lowe, an aviculturist from Billings, appeared before the committee as a proponent of House Bill No. 581. Mr. Lowe defined an aviculturist as a person who raises and cares for birds, and specifically of wild birds in captivity. He said that the thrust of this bill is really whether or not there should be a provision for aviculturists to use birds from the wild for their purposes and for propagating the species. He also told the committee some of the history of federal and state regulations of aviculture and aviculturists.

Bob Elgas, an aviculturist from Big Timber, spoke as a proponent to House Bill No. 581. Mr. Elgas stated that he has been an aviculturist for many years and has reared three species of water fowl for the first time ever in captivity. He said that this bill is important, and it is important that it pass so there will be a continuity and continuation of existing federal policy.

OPPONENTS: Jim Flynn, Director of the Department of Fish, Wildlife, and Parks, spoke as an opponent of House Bill No. 581. Mr. Flynn handed out a copy of his testimony to all committee members. (See Exhibit No. 2)

Janet Ellis, representing the Montana Audubon Council, said that they are supportive of the concept behind House Bill No. 581, but they can not support it in its present form. She handed out a copy of her testimony to all committee members. (See Exhibit No. 3)

There being no further proponents or opponents, the hearing was opened to committee questions.

DISCUSSION OF HOUSE BILL NO. 581: Representative Rapp-Svrcek said that it is not clear to him what is done with the birds once they are in the aviculturists possession. Mr. Schendel said that once they are in their possession, they are frozen at a certain location, and they can not be moved without permission from the Federal Wildlife Commission. Representative Rapp-Svrcek also wanted to know if any of these birds were ever returned to the wild. Mr. Schendel said that hundreds of geese and ducks have been returned to the wild.

Representative Eudaily asked Mr. Schendel about the wording of the bill on page 1, lines 16, 17, & 18. Mr. Schendel responded by giving an example of what was being done in Alaska concerning permits. Representative Eudaily then asked Mr. Schendel if there is anything else handled in such a manner where the Department must agree with the federal policies. Mr. Schendel said that usually the federal government sets the policies and then the states work their policies into the ones set by the federal government.

Representative Ellison said that he would like to see the aviculturists get this permit. He asked Mr. Flynn if they couldn't keep an accurate enough control or count so that the resource wouldn't be hurt. Mr. Flynn said that at the present time with the process that goes on with the federal government, they are able to track what permits are issued and what is going out of the wild. Representative Ellison asked Mr. Flynn if he would withdraw his objection, if this bill were to be "sunsetting"

for four years, and at the end of that time, if it were too cumbersome for the department or hurting the resource, then it would have to be renewed. Mr. Flynn said that there are people who would be taking advantage of this system that would be contributors to wildlife, but there are also others that they don't know about that could be negative contributors. He said that if this bill was instituted with a sunset clause, that would at least give them the opportunity to say what had happened or had not happened in the last four years, but he would still have to say that it would not be acceptable to them.

Representative Rapp-Svrcek said that he was confused because the packet that Mr. Lowe passed around, contained a permit granting the permission of the Department to take some migratory water fowl. He wondered why they had granted that permit if they were now opposing this bill. Mr. Flynn said that at the time that permit was issued, they were doing something that was not even in the statutes. Representative Rapp-Svrcek then wanted to know if the people are outside the state law now. Mr. Flynn said that the federal government has authority on migratory birds and they set the perimeters. They also have the jurisdiction on these parameters, and what they have done is established a policy without any permits. Representative Rapp-Svrcek then asked Mr. Flynn if his Department has ever told the federal government that they don't agree with what they are doing. Mr. Flynn said that they had, and gave a comment about an individual in the Bitterroot who they felt did not have the proper facilities to propagate game birds. Representative Rapp-Svrcek asked Mr. Elgas if they could get a permit only on huntable birds. Mr. Elgas said that was true unless a species such as the Hawaiian Goose, is covered by a grandfather clause.

Representative Grady asked Mr. Elgas what kind of profit was made from propagating wild birds. Mr. Elgas said there was not a profit, because he spends more to rear a bird than what he can get for the bird. He said he raises birds because he enjoys and loves them, and for no other reason. Representative Grady asked Mr. Flynn how much it would cost the Department to handle the permits if this bill should pass. Mr. Flynn said that he does not have any figures to give the committee, but they do work closely with the US Fish and Wildlife and if their system can be worked in with the State rule

FISH AND GAME COMMITTEE

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Page Four

making, then there might not be much of a cost involved. He said that if this bill were to pass, the legislature might consider some fee be attached.

In closing, Representative Wallin passed out a Statement of Intent to go along with House Bill No. 581.

EXECUTIVE SESSION: Representative Ellison said that he would like to make some amendments to this bill before executive action is taken, and it was agreed upon by the committee.

ADJOURNMENT: There being no further business before the committee, the meeting was adjourned at 4:25 p.m.



BOB REAM, Chairman

DAILY ROLL CALL

Fish and Game COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2-17-85

[illegible]

Exhibit #1
2-7-1985
H.B. #581

TESTIMONY REGARDING HOUSE BILL 581

DALE W. SCHENDEL
BOZEMAN, MT

In the United States all wildlife has been deemed to be the property of the people; with the stewardship of this resource placed in the hands of each state. In an effort to manage this resource, each state has established an agency or a department to administer the laws and policies as set forth by the state legislatures.

However, some species of wildlife are very mobile and undertake dramatic geographical shifts of their populations each year. Waterfowl are probably the most notable of this group; crossing national as well as state boundaries as they migrate to and from the breeding and wintering grounds. To alleviate the insurmountable problems of each state trying to set management policies independently, waterfowl were placed in the custody of a national administrator -- the U.S. Fish and Wildlife Service. Under guidelines established by this agency, each state is able to set a management policy that is in concert with all the other states.

In managing these resources, our administrators must take into consideration the needs and desires of all the people. This includes much more than just satisfying the needs of the hunters and fishermen. They must also consider the needs of non-consumptive users, such as photographers and those to whom wildlife is a nuisance, for example, the agricultural community concerned with crop depredation.

The U.S. Fish and Wildlife Service has recognized the rights of aviculturists to share in this resource. The guidelines of this policy are spelled out in Attachment #1. This policy determination was made using existing federal law.

At present, state law does not contain provisions allowing the Montana Department of Fish, Wildlife, and Parks to set policy and administer the issuance of aviculture permits for the purpose of propagation. Therefore it is my hope that you will give favorable consideration to the bill before you so that another segment of the people may share in and enjoy (the use of) this resource.

POINTS MOST COMMONLY RAISED

1. Question: How many permits can the Department of Fish, Wildlife, and Parks expect to issue each year?

Answer: I would anticipate 3-10 at the most. In 1984, the state of Alaska issued approximately 70 permits to collect waterfowl; and that state has a tremendous variety of waterfowl that cannot be collected anywhere else.

2. Questions: Can these waterfowl be sold for profit or be used commercially?

Answer: No. Federal law prohibits birds or eggs taken from the wild to be sold, bartered, or traded. Wild caught birds remain the property of the federal government,

and are only released into the custody of the aviculturist for the purposes intended in the issuance of the permit. First generation and subsequent progeny do become the property of the aviculturist to be used in accordance with existing federal law.

LC ²⁻⁷⁻¹⁹⁸⁵ 1054/01



Montana Legislative Council

1 may be taken;

2 (d) areas in which collection may be made;

3 (e) means by which collection may be made;

4 (f) the time period for which the permit is valid; and

5 (g) any other conditions imposed by the department
6 under rules adopted pursuant to subsection (5).

7 (3) Hatched migratory game birds or their eggs taken
8 under an avicultural permit issued in accordance with this
9 section remain the property of the state and may be disposed
10 of only with the permission of the department. Progeny of
11 hatched migratory game birds taken under permit as provided
12 in this section become the private property of the holder of
13 the permit who propagates such migratory game birds, and the
14 owner may sell or transfer such birds as private property,
15 subject to any applicable state or federal law or
16 regulation.

17 (4) An applicant for a migratory game bird avicultural
18 permit who is denied a permit by the department may seek a
19 remedy under the contested case hearing provisions of Title
20 2, chapter 4.

21 (5) The department shall adopt rules implementing this
22 section.

23 Section 2. Section 87-4-902, MCA, is amended to read:

24 "87-4-902. Exemption. This part does not apply to:

25 (1) a person who owns, controls, or propagates game

1 birds for purposes other than sale or conveyance of game
2 birds or parts thereof and who notifies the department and
3 receives its written authorization and exemption; or

4 (2) the holder of a migratory game bird avicultural
5 permit under [section 1]."

6 NEW SECTION. Section 3. Codification instruction.
7 Section 1 is intended to be codified as an integral part of
8 Title 87, chapter 2, part 8, and the provisions of Title 87
9 apply to section 1.

-End-



United States Department of the Interior

FISH AND WILDLIFE SERVICE

WASHINGTON, D.C. 20240

EXHIBIT #1
P. 6
2-7-1985
ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

File No: REG 21-04-5

xADM 9-01

LE- 53

Date: MAR 30 1978

LAW ENFORCEMENT MEMORANDUM

Subject: Issuance of Special Purpose Permits (50 CFR 21.27) For The Taking of Migratory Waterfowl and Eggs From The Wild For Propagation Purposes

I. Introduction. On March 2, 1976, at a meeting of aviculturists and Service representatives, the Director announced a change in policy for the taking of waterfowl and eggs from the wild for propagation purposes. In the past permits had been issued to aviculturists only to take specimens that were judged to be essentially unavailable through commercial channels or for the eggs which were being destroyed in agricultural or construction operations. The new policy will be more liberal and permit qualified aviculturists to take waterfowl or their eggs from the wild for specific propagation activities. It reflects the views that aviculturists can make an important contribution to knowledge and understanding of waterfowl, and aviculturists should be given reasonable opportunity to share in the use of the waterfowl resource. The following guidelines are effective immediately to implement this policy.

II. Issuance Criteria.

A. Purpose. Permits may be issued to established aviculturists for the taking of adult, young or unhatched eggs of wild waterfowl for the purposes of:

1. Rejuvenating bloodlines or gene pools,
2. Improving or developing propagation techniques, or
3. Developing stocks of waterfowl not readily available to aviculturists.

2-7-1985

B. Qualifications. Applicant should be judged to have both the technical skill needed to propagate birds and propagation facilities adequate for the purpose being proposed in the permit application.

C. Acquisition of Breeding Stock.

1. All traps or nets used to capture migratory birds shall have attached thereto a tag or label clearly showing the name and address of the permittee and his permit number.

2. Only the number and kind of waterfowl specified in the permit may be taken. The permit will specify the period (calendar dates), when the birds may be taken and whether they are to be adult or young birds, or eggs.

D. Sale, Transfer or Exchange of Waterfowl. The birds or the young hatched from eggs removed under permit from the wild will continue to be governed by the special conditions of the permit issued for their taking. Progeny of these birds may be disposed of in the same manner as other propagated waterfowl, and the sale, transfer, or exchange of birds must be documented on Form 3-186.

E. Special Requirements and Conditions.

1. Birds removed from the wild or young hatched from eggs which are removed from the wild may not be sold or offered for sale.

2. Applications for special purpose permits for the taking of waterfowl from the wild for propagation purposes will be reviewed by the SAC and two regional office personnel designated by the Regional Director for a determination of permit issuance or denial.

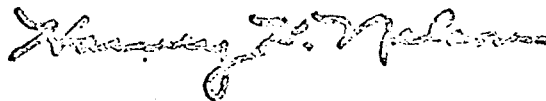
3. Permits will be issued for the period necessary to accomplish the objectives of the permit.

4. Marking - All birds shall be marked as follows:

a. All birds shall be marked immediately upon taking from the wild with bands furnished by the U.S. Fish and Wildlife Service. The black markers now being used to mark raptors should be used for this purpose.

b. All birds produced from eggs taken from the wild will be marked prior to attaining 21 days of age with bands furnished by the U.S. Fish and Wildlife Service.

5. Permits for activities that are conducted in a LE District shall be issued by the SAC where the collecting is accomplished. If a SAC receives a permit application for activities to be conducted in another LE District, the application will be forwarded to the appropriate SAC for permit issuance. Where activities under a permit are to be conducted in several LE Districts (except Alaska) the SAC receiving the application shall issue the permit upon letter of concurrence from the other concerned SACs. A copy of the permit issued shall be forwarded to all affected SACs. Permits issued for the taking of waterfowl in Alaska must be issued by the SAC Anchorage.



Associate Director
Fish and Wildlife Resources

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF GAME

Exhibit #1
2-7-1985
BILL SHEFFIELD, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4190

January 17, 1985

Mr. Dale Schendel
217 Ridge Trail
Bozeman, Montana 59715

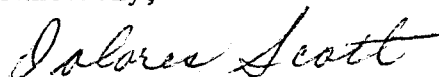
Dear Mr. Schendel,

Enclosed is the information you requested on the phone last evening, the legislation pertaining to permits issued to the public by the Department of Fish and Game.

I have also been able to extract a little more information for you pertaining to collecting permits for waterfowl. We issued 345 collecting permits the past year; a rough estimate is that about 25% of them might involve waterfowl, and some of those are for the rehabilitation and eventual release of waterfowl. (86)

I hope the information is of some benefit to you in your efforts to draft legislation for the state of Montana. Good luck.

Sincerely,



Dolores W. Scott
Administrative Assistant

Effect of amendments. — The 1983 amendment rewrote the existing language of this section and designated that language subsection (a) and added subsection (b).

Sec. 16.05.255. Regulations of the Board of Game. (a) The Board of Game may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

(1) setting apart game reserve areas, refuges and sanctuaries in the waters or on the lands of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of game;

(3) establishing the means and methods employed in the pursuit, capture and transport of game;

(4) setting quotas and bag limits on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators or other categories;

(6) investigating and determining the extent and effect of predation and competition among game in the state, exercising control measures considered necessary to the resources of the state and designating game management units or parts of game management units in which bounties for predatory animals shall be paid;

(7) engaging in biological research, watershed and habitat improvement, and game management, protection, propagation and stocking;

(8) entering into cooperative agreements with educational institutions and state, federal, or other agencies to promote game research, management, education, and information and to train persons for game management;

(9) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(10) establishing the times and dates during which the issuance of game licenses, permits and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed.

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of game for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of the regulations will jeopardize or interfere with the maintenance of game resources on a sustained-yield basis. Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

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(A) Bear, brown or grizzly, each \$25
The Board of Game may, by regulation effective for not more than one year, eliminate the resident brown or grizzly bear tag and fee for all or a portion of a game management unit.

(B) Musk oxen, each 500
However, the Board of Game may by regulation reduce or eliminate the fee for a resident big game tag for musk oxen for an open season.

(b) The commissioner of fish and game may issue without cost a permit to collect fish and game, including fur animals, subject to limitations and provisions that are appropriate, for a scientific, propagative, or educational purpose. In addition, the commissioner shall issue a permit for the collecting of wild fur animals for improving the genetic stock of fur farm animals. Permits issued under this subsection shall be in accordance with current sustained yield management practices for the species of wild game for which the permit is requested. The annual permit fee for an Alaska resident to collect wild fur animals for fur farming purposes is the same as the fee for resident trappers.

(c) The commissioner of revenue may issue a duplicate license or a duplicate tag as a replacement for a license or tag issued under (a) of this section. A fee of \$2 shall be charged for each duplicate license or tag and the duplicate shall not be issued unless the commissioner of revenue or a delegate is satisfied that the original has been lost or destroyed. This subsection does not apply to a 25-cent license issued under (a)(6) of this section.

(d) Members of the military service on active duty who are permanently stationed in the state, and their dependents, who do not qualify as residents under AS 16.05.940(20), may obtain special nonresident military small game and sport fishing licenses at the rates for resident hunting and sport fishing licenses, but may not take a big game animal without previously purchasing a regular nonresident hunting license and a numbered, nontransferable appropriate tag, issued at one-half of the nonresident rate, under (a)(15) of this section.

(e) Each master guide licensed under AS 08.54.100 and each registered guide licensed under AS 08.54.110 shall pay a fee in the following amount for each caribou, sheep, mouse, brown or grizzly bear and polar bear taken on a hunt guided by or under the active supervision of the guide:

(1) polar, brown or grizzly bear:

(A) for each polar, brown or grizzly bear taken over a total of 5 polar, brown or grizzly bear per season and up to a total of 10 polar, brown or grizzly bear — \$20;

(B) for each polar, brown or grizzly bear taken over a total of 10 polar, brown or grizzly bear per season and up to a total of 25 polar, brown or grizzly bear — \$100;

(C) for each polar, brown or grizzly bear taken over a total of 25 polar, brown or grizzly bear per season — \$500;

or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(5) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish or other fish resources;

(6) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(7) "department" means the Department of Fish and Game unless specifically provided otherwise;

(8) "domestic mammals" include musk oxen, bison and reindeer, if they are lawfully owned;

(9) "fish" means any species of aquatic finfish, invertebrates and amphibians, in any stage of their life cycle, found in or introduced into the state;

(10) "fish derby" means a contest in which prizes are awarded for catching fish;

(11) "fishing derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(12) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(13) "fur dealing" means engaging in the business of buying, selling, or trading in animal skins; the term does not apply to a hunter or trapper selling the animal skins the trapper or hunter has legally taken, or to a person, other than a fur dealer, purchasing animal skins for the person's own use;

(14) "game" means any species of bird and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of this chapter;

(15) "hunting" means the taking of game under this chapter and the regulations adopted under it;

5 AAC 81.040. PERMITS ISSUED BY THE DEPARTMENT. Permits for the following purposes will be issued at the discretion of the department:

- (1) exporting raw skins of wild fur animals;
- (2) taking, holding, importing or releasing any live game;
- (3) selling skins or trophies in compliance with provisions of 5 AAC 81.200(4);
- (4) hunting black bear with dogs;
- (5) taking any species of game for scientific, educational, exhibition, propagation, or taxidermy purposes when such taking is otherwise prohibited;
- (6) taking game by permit hunts under this chapter;
- (7) access to the McNeil River State Game Sanctuary; permit applications must be made to the Alaska Department of Fish and Game, Game Division, 333 Raspberry Road, Anchorage, Alaska 99502; permits will be issued as follows:
 - (A) From July 1 to August 25, maximum of 10 nontransferable permits may be in effect for each day. A single permit will be issued to each individual. From August 26 to June 30, an unlimited number of permits may be issued;
 - (B) Permits for the period July 1 to August 25 shall be issued and conditioned as follows:
 - (i) permits will be issued for predesignated time periods, not to exceed four days; the permit application must include the desired time period; no person may be issued more than one multiple-day permit in any regulatory year;
 - (ii) not more than three persons may apply as a group for the same time period on the same application form; the names of all individuals must be on the application form;

(iii) applications must be accompanied by a fee in the amount of \$5 per name, and must be received in Anchorage by May 1; a drawing will be held on May 15 and successful applicants will be notified by mail;

(iv) before June 30, alternate permits may be issued on a first-come, first-served basis by the King Salmon area game biologist or his designee during days when less than 10 permits are in effect for the sanctuary; after July 1, permits valid for a single day only may be issued by the department designee at McNeil River State Game Sanctuary, and no multiple-day permits will be issued;

(v) a person visiting McNeil River State Game Sanctuary without a permit must remain in the immediate vicinity of the campground and beach, and must abide by department rules established under (D) of this paragraph;

(vi) no person may remain in the sanctuary more than seven days during the July 1 to August 25 period; no person who has visited the sanctuary for seven days during this period may apply for or be issued a permit, and any permit previously issued to that person will no longer be valid; the person must thereafter remain in the vicinity of the campground until departing the sanctuary.


(C) Permits for the period August 26 to June 30 shall be issued and conditioned as follows:

(i) the permit application must specify the applicant's request visiting period;

(ii) the permit application must state the activities to be conducted within the sanctuary;

(D) A permittee must abide by rules provided by the department to minimize bear-human interaction. The rules are a condition of the permit, and violation of these permit terms is a misdemeanor and a basis for immediate revocation of the violator's permit. These rules must cover:

OME NO. 42-P1670

 <p>DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</p>	<p>APPLICATION FOR (Indicate only one):</p> <p><input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT</p> <p>2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED</p> <p>To take 12 downy Tule White Front Geese for the purpose of propagation, public display and introduction of new blood lines into captive flocks.</p>													
<p>3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)</p> <p>International Aviculture Resources, Inc. 217 Ridge Trail Road Bozeman, Montana 59715 (406) 586-6763</p>	<p>5. IF APPLICANT IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING</p> <p>EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION</p> <p>Non profit corporation</p>													
<p>4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td><input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.</td> <td>HEIGHT 6' - 0"</td> <td>WEIGHT 190#</td> </tr> <tr> <td>DATE OF BIRTH April 3, 1943</td> <td>COLOR HAIR Blk.</td> <td>COLOR EYES Haz.</td> </tr> <tr> <td>PHONE NUMBER WHERE EMPLOYED (406) 586-6763</td> <td colspan="2">SOCIAL SECURITY NUMBER 516-50-2890</td> </tr> <tr> <td colspan="3">OCCUPATION Airline Pilot</td> </tr> </table> <p>ANY BUSINESS AGENCY OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT</p> <p>International Aviculture Resources Inc.</p>	<input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.	HEIGHT 6' - 0"	WEIGHT 190#	DATE OF BIRTH April 3, 1943	COLOR HAIR Blk.	COLOR EYES Haz.	PHONE NUMBER WHERE EMPLOYED (406) 586-6763	SOCIAL SECURITY NUMBER 516-50-2890		OCCUPATION Airline Pilot			<p>NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.</p> <p>Dale W. Schendel (406) 586-6763</p> <p>6. IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED</p> <p>Montana</p>	
<input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.	HEIGHT 6' - 0"	WEIGHT 190#												
DATE OF BIRTH April 3, 1943	COLOR HAIR Blk.	COLOR EYES Haz.												
PHONE NUMBER WHERE EMPLOYED (406) 586-6763	SOCIAL SECURITY NUMBER 516-50-2890													
OCCUPATION Airline Pilot														
<p>7. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED</p> <p>Location of capture to be the North shore of Cook Inlet, Alaska, and transfer to Gallatin County, Montana.</p>	<p>8. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>If yes, list license or permit number:</p> <p>PRT 2 - 2931 DN</p> <p>9. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>If yes, list jurisdictions and type of documents:</p> <p>Similar application pending to the state of Alaska. See copy enclosed.</p>													
<p>10. CERTIFICATE CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF</p> <p>Not Applicable</p>	<p>11. DESIRED EFFECTIVE DATE</p> <p>May 1, 1984</p>	<p>12. DURATION NEEDED</p> <p>3 months</p>												
<p>13. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE 50 CFR 21.27) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED</p> <p style="text-align: center;">50 CFR 21.27</p>														
<p>CERTIFICATION</p> <p>I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 OF TITLE 50 AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.</p>														
<p>SIGNATURE (If ind.)</p> <p><i>Dale W. Schendel</i></p>		<p>DATE</p> <p>January 4, 1984</p>												

INTERNATIONAL AVICULTURE RESOURCES, INC.

217 Ridge Trail Road
Bozeman, Montana 59715
(406) 586-6763

International Aviculture Resources, Inc. remains on its original site of three acres in Gallatin County, Montana. 1983 saw us improve our facilities across the board with emphasis on water, fencing and cold weather structures. In addition to the twenty Dusky Canada geese captured on the Copper River Delta in 1983, we have added selected ducks and geese from around the world including Nènès and Cuban Tree ducks, which are both on the endangered species list. As always, purity of strain is of utmost importance in the birds we maintain and propagate.

The Tule geese nesting in Cook Inlet have been well managed on both the breeding and wintering grounds. The 1983 population, after recruitment, was estimated to be about 4,500 birds by Mr. Bruce Campbell of the Alaska Dept. of Fish and Game. This represents an increase in total population and shows that the Cook Inlet breeding area is in good condition and should continue to support stable of increasing numbers of Tules. In view of the current condition of the Tule population, 1984 should be a good time to collect specimens for the purpose of introducing new blood lines into captive flocks.

Collecting would be done under the direction of Mr. Bruce Campbell while participating as a volunteer on his research team. Collecting the Dusks in 1983 was also done under the direction of Mr. Campbell. Our airshipment technique produced 100% survival rate with the Dusks in 1983, as should be repeated with the Tules.

The successive generations of Tules will be placed with other responsible aviculturists interested in maintaining a pure strain of birds. The first placement will be with Mr. Frank S. Todd, Corporate Curator of Birds, Sea World, San Diego; who has given his support for this project.

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME

APPLICATION
for

PERMIT to take, possess, hold alive, import into or export from Alaska,
BIRDS OR THEIR EGGS, MAMMALS (except historically domestic birds, their
eggs, and mammals) and FISH AND THEIR EGGS (except gold fish and decora-
tive tropical fish) FOR SCIENTIFIC, EDUCATIONAL, OR PROPAGATIVE PURPOSES.

I, Dale W. Schendel, of 217 Ridge Trail, Bozeman, Mont. 59715
(Name) (Mailing Address)

representing International Aviculture Resources, Inc.
(Name of Organization or Institution)

hereby make application for a permit to take, possess, hold alive and
export from Alaska.

(Specify Take, Possess, Hold Alive, Export, Import, Band, etc.)

the following species of birds
(Specify Birds, Mammals, Fish)

<u>SPECIES - COMMON NAMES</u>	<u>NO.</u>	<u>SPECIES - COMMON NAMES</u>	<u>NO.</u>
<u>Tule White Front Geese</u>	<u>12</u>		

during the period May 1, 1984 to July 31 1984.

I wish to obtain the above by means of hand capture
(Traps, Snares, Guns, etc.)

from or in the vicinity of North shore of Cook Inlet.

The purpose of the activities for which a permit is being requested is propagation, public display and introduction of new blood lines
into captive flocks.

Final disposition of mammals, birds or their eggs, or fish or their eggs will be maintained at 217 Ridge Trail, Bozeman, Montana, location of
breeding and display facilities.

I certify that all statements entered on this application are true, that I will abide by all conditions and restrictions of a permit if issued, and promise to submit a report of activities carried out under terms of such permit within ten (10) days of its expiration date. I further recognize that such permit, if issued, does not authorize collection, possession, or transportation of migratory birds or their nests or eggs except as permitted by, and in conjunction with, a valid permit which may be issued by the Bureau of Sport Fisheries and Wildlife of the U.S. Fish and Wildlife Service.

Dale W Schendel
(Signature)

January 4, 1984
(Date)

If applicant is representing any corporation or institution, a certification must be notarized and attached to this application. Certification form will be furnished by the Department of Fish and Game, Division of Game, Subport Building, Juneau, Alaska 99801.

When completed, please submit this application to the above address.



FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

DALE W SCHENDEL
217 RIDGE TRAIL ROAD
BOZEMAN

MT 59715

2. AUTHORITY-STATUTES

16 USC 703-712

REGULATIONS (Attached)

50 CFR Part 13
50 CFR 21.27

3. NUMBER

PRT-675295

4. RENEWABLE

☐ YES
☒ NO

5. MAY COPY

☒ YES
☐ NO

6. EFFECTIVE

5/ 1/84

7. EXPIRES

7/31/84

SUBPERMITTEES NOT ALLOWED

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

9. TYPE OF PERMIT

SPECIAL PURPOSE

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

THE WEST SIDE OF COOK INLET, BETWEEN THE MOUTH OF THE BIG SUSITNA
RIVER AND TUXEDNI BAY, ALASKA

11. CONDITIONS AND AUTHORIZATIONS.

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR.13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. Authorized to capture and transport up to twelve (12) downy Tule White-fronted Geese.

E. Carry this permit whenever exercising its authority.

F. Captured birds are to be transported only to Bozeman, Montana, and kept in accordance with State and Federal permits.

G. Maintain records as required in 13.46. These records will include the date and location all birds are captured and the number of birds that die between the time of capture and the time your required report is submitted.

H. None of the birds captured may be sold, nor transferred to any other individuals.

I. All birds must be marked by one of the methods listed in 21.13(b), within thirty (30) days of capture.

J. This permit does not authorize trespass on Native

☐ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS

FIRST ANNUAL REPORT DUE 8/15/84
FORM 3-430A IS ENCLOSED FOR REPORTING PURPOSES.

ISSUED BY

LARRY L. HOOD

TITLE

ASST. SPECIAL AGENT-IN-CHARGE

DATE

4/ 9/84

ORIGINAL SAC LE; SRA, ANCHORAGE LE; ADF&G, JUNEAU;



STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
JUNEAU, ALASKA

Permit No. 84-96

Expires 7/31/84

SCIENTIFIC OR EDUCATIONAL

PERMIT

to

TAKE OR POSSESS

BIRDS OR THEIR EGGS

HOLD ALIVE

EXPORT BIRDS OR MAMMALS

This permit authorizes Dale W. Schendel

person, agency or organization

of 217 Ridge Trail Road, Bozeman, Montana 59715

address

to conduct the

following activities during May 1, 1984 to July 31, 1984 in accordance with AS 16.05.930 to:

Authority is granted to capture and transport up to twelve (12) downy Tule White-fronted Geese from the west side of Cook Inlet, between the mouth of the Big Susitna River and Tuxedni Bay, Alaska.

All other conditions same as Federal permit PRT-675295.

FEDERAL PERMIT PRT-675295 MUST BE IN POSSESSION

This permit must be carried by a person specified on this permit during approved activities who shall show it on request to persons authorized to enforce Alaska's fish and game laws. This permit is nontransferable, and will be revoked, or renewal denied by the Commissioner of Fish and Game if the permittee violates any of its conditions, exceptions or restrictions. No redelegation of authority may be allowed under this permit.

By Delegation of the Commissioner

Robert M. Kuimari
Division of Game

ALASKA DEPARTMENT OF FISH AND GAME

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

February 7, 1985

I appear before you today in opposition to HB 581.

Under the present permitting system, if a person desires to take from the wild any migratory waterfowl, he must first obtain a federal permit to do so. The federal permitting agency, by policy, will not issue such a permit without the concurrence of the Department of Fish, Wildlife & Parks. The department has concurred with the issuance of such permits when the purpose of the permit was for scientific or educational activities. We have not concurred with the issuance of those permits when the purpose was to propagate the species in captivity with the progeny being sold.

HB 581 would allow the taking of migratory game birds for propagation. The department cannot support this activity for two basic reasons. The question immediately arises as to how many permits we can issue without adversely impacting the various species involved. Some of the species which fall into the category of migratory waterfowl are species which are not abundant in the wild in the State of Montana.

As an example, the U.S. Fish & Wildlife Service has indicated that approximately 30 individuals have requested permits for the collection of trumpeter swan or trumpeter swan eggs. It is our concern that this particular species cannot experience any taking from the wild. But, if it were considered, who is to say how many would be acceptable.

A second concern is to determine which permits will be authorized and which will not be authorized. This would have to be done in a manner to avoid any bias in the denial of some permits and approving other permits. It would be difficult to assure that a cumulative negative impact upon the resource did not occur.

The development of an adequate system to address this particular concern would be extremely burdensome and it is not justified by the demand that exists.

We would point out to the committee that there are commercial sources now in existence outside of the State of Montana for most - if not all - of the migratory game birds available in the State of Montana in their natural environment.

There are private companies in the business of raising and making available to the public for sale most of these species. If a person is interested in establishing migratory game bird stock, those commercial sources are readily available now and can be utilized without any statutory law changes.

This subject has been addressed before by the department, and our position has consistently been one of opposition to the concept. We do not feel that any more information we have available to us to date would cause us to change that position. As a result, we would request that HB 581 not be concurred in by this committee. Thank you.

Montana Audubon Council
Testimony on HB 581
February 7, 1985

Exhibit #3
2-7-1985
H.B. # 581

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Council. The Council is supportive of the concept behind HB 581. We believe that a state permit system should be set up for individuals who want to propogate migratory game birds in the state. We cannot, however, support HB 581 in its present form. We also feel that because of the major revisions that need to be made to make HB 581 workable, it may be best to request the Department of Fish, Wildlife & Parks to study this situation and come back at a future Legislature to make recommendations on this proposal.

Upon first examination of HB 581, the bill looks like a logical piece of legislation that brings state statutes into compliance with Federal law. All migratory birds are protected by Federal law. If Montana should decide to allow individuals to capture wild animals for propogation, an individual automatically needs a federal permit. It also seems appropriate to require the Department to set standards for such activities in the state and hence issue a state permit regulating this industry.

As we examined HB 581, it has been difficult to imagine the circumstances under which an individual would want to take animals from the wild for propogation and why. The only laws that appear in Montana statutes regarding the capture and propogation of wild birds are those concerning falconry. We have hence attempted to examine HB 581 in light of the falconry laws governing this state. Regulations on falconers currently appear to be working.

I have passed around a sheet which includes some sections of the Montana Code that I will briefly go over at this time:

87-2-101 Defines migratory game birds. Please note that this section includes such species as swans, cranes and rails.

87-5-205, 206 and 210 all refer to falconry. I use them for comparison purposes only:

87-5-205 Restricts the species that falconers may use and capture. We would like to see a similar list created for migratory game birds. Such a list would give the Department and other concerned individuals the ability to statutorily protect certain species. Our preliminary list would include swans, both Trumpeter and Tundra/Whistling Swans, cranes and rails. If there are other species that need protection, they should also be considered for listing. More information needs to be gathered before such a list could be drafted.

87-5-206 Restricts falcons from being taken at certain times of the year and requires that some individuals be left in a nest to allow adults to raise some young. We would like to see a similar measurement protecting migratory game birds.

87-5-210 Sets up a fee system for annual registration of captive breeding programs. We see no reason why individuals who are propogating migratory game birds should not also have a similar registration system.

I now want to draw your attention to one aspect of HB 581 that indicates that statutory regulations should be closely and carefully drawn up: page 2, line 17, subsection 4 allows anyone denied a permit by the department to "seek a remedy under the contested case hearing provisions of Title 2, chapter 4." This is an unusual section. We are uncomfortable with this clause when more statutory protection for the birds being considered is not on the books.

I would like to conclude by saying that we approve of the general ideas behind HB 581. Our attempt to examine falconry laws and compare them to the laws relating to migratory game birds is not pretending to be a look at EVERYTHING that should be considered under an aviculture permit system. The issue needs to be studied further. We need to get an idea about how other states handle this system, and we need to gather information about what Montana birds should be protected from this industry.

It is our hope that HB 581 and its ideas could be worked on between now and the 1987 Montana Legislature. It seems pointless to pass legislation at this time that could potentially lead to numerous problems. This issue needs to be examined closely before any such program should be begun.

Thank you.

87-2-101

(17) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and mourning doves; however, the open season on mourning doves shall be restricted to the open season on upland game birds as defined in subsection (12) below.

Falconry Laws

87-5-205. Restrictions on species allowed for falconry. (1) The peregrine falcon (*Falco peregrinus*), bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), and osprey (*Pandion haliaeetus*) may not be captured in this state for the sport of falconry.

(2) Species of raptors which are native to North America may be brought into Montana for the purpose of falconry unless that action is specifically prohibited by this part, the laws of other states, or the rules of the federal government. Those raptors may be possessed, subject to this part. A person bringing a raptor into this state must be able to show proof of the area of origin.

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(4). (7).

87-5-206. Restrictions on taking, possessing, and selling raptors. (1) A licensee may not at any time possess more than three raptors, including those that have been imported, except as permitted by the department under 87-5-210.

(2) Licensees may take raptors as young or fledglings from nests (unless specifically prohibited by department rules) or by traps or nets which are humane in their operation and use. Not more than one young may be taken from one nest by a permittee or permittees, and at least one young must be left in the nest. The department may close an area of the state to the taking of raptors at any time or designate other raptors which may not be taken. This subsection does not permit the removal of raptors in any national or state refuge or park or in any area in which local laws may prohibit that activity. Trapping raptors is permitted only between September 1 and February 1.

(3) A licensee may not transfer ownership or possession of a raptor taken or possessed under the provisions of this part without notifying the department within 10 days after the date of transfer.

(4) A person may not sell or offer for sale Montana raptors in this state. A person may not transport raptors out of the state except by permit issued by the department.

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(8), (9), (12), (15); amd. Sec. 2, Ch. 297, L. 1983.

87-5-210. Captive breeding of raptors -- permit -- fee -- transfer and revocation -- rules. (1) The department may grant permits to a person, whether or not licensed under this part, for the taking and holding of raptors for captive breeding purposes under such conditions, consistent with this part, as the department may specify in the permit.

(2) The fee for a captive breeding permit is \$20 a year.

(3) Captive breeding permits are not transferable and may be revoked at any time by the department for violation of any conditions of the permit or regulations of the department.

(4) The department may adopt rules for the keeping of records and for the trapping, taking, possession, propagation, and release of raptors taken and held for captive breeding projects.

History: En. Secs. 3, 4, 5, Ch. 297, L. 1983.

49th Legislature

LC 1054

STATEMENT OF INTENT

_____ BILL NO. _____

A statement of intent is necessary for this bill because section 1 grants rulemaking authority to the department of fish, wildlife, and parks. It is the intent of the legislature that the department adopt rules providing for coordination with federal agencies in the issuance of avicultural permits and enforcement of conditions and restrictions imposed by the federal migratory game bird regulations.

The legislature intends that the department adopt rules addressing disposition of migratory game birds that remain the property of the state under the provisions of this bill. It is the further intent of the legislature that the department provide necessary guidelines for the issuance and exercise of avicultural permits not stated in the bill.

VISITORS' REGISTER

FISH AND GAME

COMMITTEE

BILL NO. 581

DATE 2-7-1985

SPONSOR WALLIN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dale Schendel	217 Ridge Trail, Bozeman	✓	
RITA RICE FLANINGAM	618 S. 12th BOZEMAN	✓	
Bob Elgers	box 928 BigTimber	✓	
BRYAN SCHUSTER	BARX RIVER RANCH GREYCLIFF MT	✓	
Bill Lowe	3010 Shady Lane Billings-	✓	
Scott Ross	wolf Point		
Janet Ellis	MT Audubon Council	✓	✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.