

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 10, 1987

The meeting of the Fish and Game Committee was called to order by Chairman Orval Ellison on March 10, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Rep. Moore who was excused.

SENATE BILL NO. 109: Senator Al Bishop, District 46, sponsor, stated there is an identical law currently on the books with regard to the option of a wild mountain sheep license. The only change is this bill substitutes the words "shiras moose" for the "mountain sheep". The bill proposes to auction one (1) shiras moose license to the highest bidder which would allow the Commission to get an organization interested in this to do it. By auctioning it, they retain 10% of the proceeds, with the rest going to the Department of Fish, Wildlife and Parks to be used for "the substantial benefit of moose". He stated the only question that was brought up in Senate Fish and Game and on the floor of the Senate, was what is a shiras moose. Sen. Bishop stated this is merely Montana's common variety moose.

PROPONENTS: Jim Flynn, Director, Department of Fish, Wildlife and Parks submitted testimony (Exhibit 1). He stated during the 1985 session, a bill was introduced and subsequently enacted into law, to allow for the auctioning of one bighorn sheep license to generate funds for the benefit of sheep herds in Montana. This program has been very successful thus far. The 1986 permit sold for \$89,000 and the 1987 permit sold for \$109,000 just last week. The success of this program has led to consideration of SB 109 which proposes a similar program for shiras moose in Montana. We would envision utilizing these funds by providing matching funding for projects with the U.S. Forest Service for riparian moose habitat enhancement projects, more intensive management surveys on populations and to provide for moose habitat preservation through easements, leases or purchase. We believe the benefits associated with the revenues received would provide for additional enhancement of Montana's moose populations.

NO OPPONENTS

NO QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE

SENATOR BISHOP closed stating they are hoping the moose license is sold for more than it has in neighboring states because right now, the cost of the program DFWP has set up, is just a little more than barely covering the administration expense involved. Although we are not talking about a huge amount of money, it is a substantial thing for the Department.

HEARING CLOSED ON SB 109.

SENATE BILL NO. 352: SENATOR JOE MAZUREK, District 23, sponsor, stated SB 352 is at the request of a citizen in Helena, and he submitted a news article that appeared in the Helena Independent Record in the Fall Hunting Edition. (Exhibit 2). The article talked of a handicapped man and the struggles he had to go through to continue to be an avid big game hunter after having lost the use of his legs. So, after being contacted by Mr. Hunt, who had asked him to introduce such a bill, he has SB 352, which will allow the DFWP to reserve some percentage of the cow/elk permit licenses for nonambulatory handicapped hunters. He stated by including nonambulatory, we are not just talking about people who may qualify for some sort of handicapped preference, but people who are in the position where they are restricted in the use of their legs, and do not have the ability to walk into these areas to hunt. Anyone that hunts big game, particularly elk, knows that to hunt bull-elk, you have to get to where most folks do not go. He stated the 10% is not set in stone, and he realizes that in certain districts it could mean more permits than in others. He stated he would like to give the department as much discretion as they are comfortable with. Not tie their hands and not make it difficult to manage these things, but give them the discretion to reserve a certain number of licenses. It was his understanding that last year the department issued 1,178 conservation licenses to handicapped persons, which includes anyone with a handicapping condition; 850 hunting licenses went to handicapped persons. When you limit to the nonambulatory, it seems we think in terms of very small numbers and all we are doing is trying to give them something to reserve with a portion of the permits to be made available for nonambulatory hunters.

PROPONENTS: Jim Flynn, Director, Department of Fish, Wildlife and Parks, submitted testimony (Exhibit 3). He stated DFWP supports SB 352 as it currently impacts elk management. However, there are several concerns regarding its implementation that they would like to note. The A-7 license is an elk license that allows the taking of an antlerless elk in a designated area. The holder of an A-7 license cannot hold an A-5 general elk license, and therefore gives up the opportunity to hunt elk of either sex

anywhere else in the state. The A-7 concept has been under discussion for broader statewide application which could result in 10% of all cow permits eventually being converted to the A-7 license group. There begins to be a substantial cumulative impact on the general hunting public when bills such as SB 219 giving 15% preference to landowners for elk permits and HB 352 providing additional preference to another group are considered. Elk permits or licenses are considered a valued commodity by most Montanans and demand exceeds supply by a greater margin than for more common deer or antelope. The potential implications of this bill should clearly be understood prior to its passage. This is a policy decision and should the legislature decide to approve it, DFWP can and will implement it.

OPPONENTS: Rep. Giacometto, District 24, went on record as being an opponent to the bill.

NO FURTHER OPPONENTS

Rep. Giacometto had certain concerns about the bill and asked Sen. Mazurek why those people should be treated any different than a person that is not handicapped, and why should a person in a wheelchair have anymore rights to drawing a license than a person that is not. Sen. Mazurek stated his reason for introducing the bill is that it is difficult for a wheelchair hunter to get into areas where you traditionally have to go to hunt bull elk, and this is trying to recognize that limitation and at least give them the opportunity to try to get either sex permit. He stated he wished Mr. Hunt could have attended the hearing, because he gave some excellent testimony pointing out he just wants a fair shot at getting an elk and the ability to get a cow/elk permit.

REP. PAVLOVICH had concerns regarding set asides after the allocation to the outfitters and guides and felt this was simply 10 more to be set aside. He felt they have given enough set asides already. Mr. Flynn stated you get into a cumulative impact regarding 10% here and 15% there, with your constituents having had an equal opportunity at 100% of the permits. Now they are talking about them having equal opportunity at 85%. So, it is a policy decision that can be implemented with no problem at all. It is important for the legislature to look at these individually, but to understand that results in cumulative impact.

REP. GRADY stated he understood the tool for this A-7 was to actually lower the herds, and his support for the A-7 tags is to eventually lower the number of cow tags in any given district. In stating 10%, may bring it down even lower and he was concerned about this.

SENATOR MAZUREK emphasized to the committee that the bill states "up to 10%". In any case, that may mean one, and is entirely within the department's discretion, to cut it to 5% or 1%, but all he is attempting to do is give the department whatever latitude or discretion they think is appropriate and consistent with game management practices, to set that amount wherever appropriate for each district.

REP. JENKINS asked if when applying for a license, is there any specific criteria these people need to meet.

MR. FLYNN stated, yes, last session they wrote up the legislation allowing the nonambulatory to hunt from a vehicle and to shoot from the roadway also. There was a definition in that bill for the nonambulatory person, and that would be the criteria used in this situation.

IN CLOSING, SENATOR MAZUREK stated he would hope the DFWP, in their game management practices in determining the number of permits, would be fair when making these decisions. He stated he felt the department must appropriately evaluate how many licenses should go to the nonambulatory people and never exceed 10%. He stated he was open to any amendments the committee felt was necessary to adjust the bill from 10% to a lower number, or instead of "shall reserve up to", perhaps, "may reserve up to" which would give the department absolute discretion to decide even whether or not to do it. With that, he urged the committee to look favorably on this bill.

HEARING CLOSED ON SB 352.

SENATE BILL NO. 219: Senator Darryl Meyer, District 17, stated the major emphasis of this bill is that a landowner in a hunting district where elk permits are awarded under this section shall be issued, upon application, a permit to hunt elk on land owned by him. The applicant who receives approval for a permit under subsection (2) may designate that the permit be issued to an immediate family member or a person employed by the landowner. 15% of the special elk permits available each year under this section in a hunting district, must be available to landowners under subsection (2). He stated there is a problem in some areas where there are permits issued only, causing the landowners to close up their lands not letting anyone hunt on them and hopefully this bill will help keep those lands open to hunters.

PROPONENTS: Jim Flynn, Director, Department of Fish, Wildlife and Parks, submitted testimony (Exhibit 4). He stated the department supports the 15% landowner preference concept for elk permits as provided for in SB 219 as amended. They believe the bill should accommodate those

landowners that have significant annual elk use. As currently written, there is no accommodation for minimum acreage or a verification of elk use on the landowner's property. The only requirement is residents in a hunting district that has elk permits issued, which would allow any individual an opportunity for the 15% allocation. Given the assumption we are trying to provide for opportunities to landowners who have elk use on their property, Mr. Flynn submitted amendments from the department for the committee's consideration (Exhibit 4a and 4b).

LORNA FRANK, representing the Farm Bureau, the Montana Stockgrower's Association and the Montana Cattlemen's Association, submitted testimony (Exhibit 5). She stated private landowners provide much of the habitat and forage for our game animals. In areas with elk populations, ranchers often experience severe losses of stored hay. Since elk destroy much more feed than they actually eat, these losses can be extensive. After contributing so involuntarily to the welfare of an elk herd, it seems only fair that a landowner should have first chance at any license or permits issued. She stated they are in agreement with the amendments suggested by DFWP, and felt these permits should be handled the same way the antelope permits are. These amendments would cover that. She urged the committee to give SB 219 favorable action, as seen in the Senate.

ESTHER STENBERG, representing the Montana Wildlife Federation, submitted testimony. (Exhibit 6). She stated MWF supports the idea of allowing a landowner a better opportunity to secure an elk permit if the landowner's property provides forage for elk herds. In the Senate Fish and Game Committee, MWF recommended only 10% of the total permits be made available for landowner preference. The Senate chose to allow 15%. MWF would like to limit the eligibility standards, requiring that the landowner own a minimum of 640 contiguous acres within the hunting district. This limitation is in line with recent Idaho legislation regarding this same issue. MWF urges your consideration of the possible amendments suggested to SB 219.

SCOTT ROSS, representing the Montana Bowhunters Association, stated support for SB 219, and urged the committee to consider the suggested amendments, which will make the bill not only fair, but enforceable.

NO OPPONENTS

REP. DAILY asked Jim Flynn if the landowners would still be eligible for these permits, if their land is closed to hunting.

MR. FLYNN stated yes, they would be.

REP. DAILY questioned whether this was fair, that they would be eligible for this drawing, when their land is locked up to the sportsmen.

MR. FLYNN stated what this bill addresses specifically, is the instance that has been experienced over the past few years, where some landowners cannot hunt on their own land. Because of population numbers, we had to go to some hunting districts where you can hunt only elk on a permit basis only. There is no general elk license allowed for hunting in the hunting district. Those landowners who are wintering the elk cannot go downtown and buy a license to hunt elk on their own property. This would give them a 15% preference in those instances.

REP. REAM stated that considering this is already done for deer and antelope, simply through administrative regulations, assumed it could be done for elk as well. He wondered if the department or commission had considered this in the past.

MR. FLYNN replied yes, they had. He stated this is a decision made by the Commission who has continually said that is something they would like legislative direction on.

REP. ELLISON felt that all sorts of problems would arise if the number was limited. He wondered if Jim Flynn could offer a possible solution to this in hopes of sparing the landowner/sportsmen relations that may be affected by this limitation.

MR. FLYNN stated this is a difficulty that they are trying to address. It is not a question of should it be addressed, but whether it can be or cannot be addressed properly.

REP. PETERSON asked Mr. Flynn if they were planning to increase the amount of acreage being considered.

MR. FLYNN stated, no, they do not anticipate any changes.

REP. PETERSON asked Mr. Flynn if he had any idea how much time it takes for game wardens to be involved in their districts of landowner properties.

MR. FLYNN stated when a program is first instituted, it does take time. However, what we experience now is that we generally have the same landowners applying in those same areas, so it is almost a routine procedure and does not take that much time.

SENATOR MEYER closed stating he would like to see this bill get on the books somehow and felt it would help alleviate these situations where people are closing up the access to their land. He urged the committee to give SB 219 favorable passage.

HEARING CLOSED ON SB 219.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 2:25 p.m.

Orval E. Ellison

ORVAL ELLISON, Chairman

DAILY ROLL CALL

FISH & GAME

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date July 7 1987

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN	X		
MARIAN HANSON, VICE CHAIRMAN	X		
RAY BRANDEWIE	X		
TOM BULGER	X		
JOHN COBB	X		
FRITZ DAILY	X		
GENE DEMARS	X		
JERRY DRISCOLL	X		
LEO GIACOMETTO	X		
ED GRADY	X		
LOREN JENKINS	X		
VERNON KELLER	X		
JANET MOORE			X
BOB PAVLOVICH	X		
MARY LOU PETERSON	X		
JOHN PHILLIPS	X		
PAUL RAPP-SVRCEK	X		
BOB REAM	X		
STAFF: DAVE COGLEY			

EXHIBIT (1)
DATE 3/10/87
SB 109

SB 109
March 10, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

During the 1985 legislative session, a bill was introduced and subsequently enacted into law, to allow for the auctioning of one bighorn sheep license to generate funds for the benefit of sheep herds in Montana.

This program has been very successful thus far. The 1986 permit sold for \$79,000 and the 1987 permit sold for \$109,000 just this last week. The success of this program has led to consideration of SB 109 which proposes a similar program for Shiras moose in Montana. While it cannot be anticipated that a moose permit would equal the sheep permit level, additional funds could be generated for our moose management program.

Current revenues from the sale of 672 moose licenses in 1986 were \$38,600. The expenditures of the Wildlife Division alone range from \$20,000 to \$35,000 per year for this species, which does not include the enforcement or drawing costs for the species. Private donors interested in helping with the moose program donated \$6,500.

Other states such as Wyoming and Utah conduct similar auctions which have generated between \$4,000 and \$16,000. As you can see, these amounts would have a measurable impact upon our moose management program.

We would envision utilizing these funds by providing matching funding for projects with the U.S. Forest Service for riparian moose habitat enhancement projects, more intensive management surveys on populations (particularly in areas with limited visibility from the air) and to provide for moose habitat preservation through easements, leases or purchase.

We believe the benefits associated with the revenues received would provide for additional enhancement of Montana's moose populations and therefore urge your favorable consideration of SB 109.



OUTDOORS

Handicapped hunter seeks lawmakers' help

By MICHAEL CRATER
IR Staff Writer

Hunting isn't supposed to be easy, and the fact that he's confined to a wheelchair doesn't make Joel Hunt think he should have a guaranteed kill.

But he does want an even chance, and doesn't think he's getting one now.

State law permits wheelchair-bound people to hunt from their vehicles, and their permits are half-price, but Hunt says although those are nice breaks they're not enough.

He's still bound by the regular rules about the sex of animals, and "how often do you see a bull elk within shot of a road during hunting season?"

Hunt has been hunting all his life, but a year ago he lost the use of his legs in a car crash. Hunting is difficult at best after that, he said: He has had to buy some new equipment, figure out how to camouflage his wheelchair, and he has to take a friend along in case he shoots something.

He'd like two things done to make it a little easier:

• **OPENING CLOSED roads.** Hunt said that many roads lead-

ing to the best hunting areas are closed, and he thinks they should be opened for the handicapped.

• **EITHER-SEX PERMITS.** Why not let the handicapped shoot cow elk, he asks.

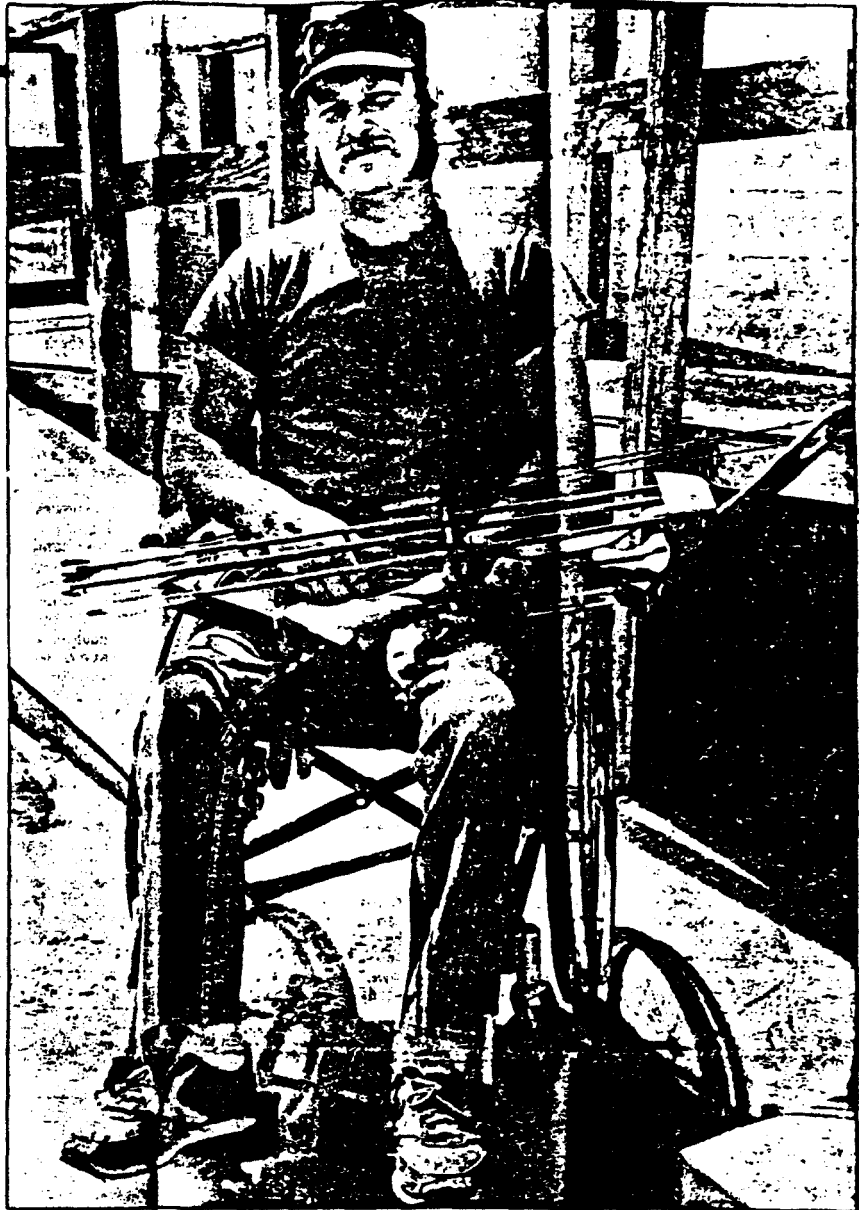
"I'd just as soon pay full price and have at least a 50-50 chance," he said. "I don't want any guarantee."

Hunt, who is married and has two children, said his disability payments don't support a heavy-meat diet. "If I want my family to eat meat sometimes, I have to kill it," he said. "I've hunted in Montana for 13 years now; I like hunting and I want a chance to get some game."

"I'm not asking to go out with a crossbow," he said. "I use the same equipment as anybody else. I'll bow-hunt first and if I don't get anything I'll hunt with a gun."

Last year, 1,178 handicapped Montanans bought conservation licenses to either hunt or fish. Hunt said he's not just concerned about himself: "I want to help all of those people."

He said he expects to take his proposal to the 1987 Legislature, and is looking for comments on it. He can be phoned at 458-6134, or written to at 5234 McHugh Lane.



Hunt wants even chance at game, and doesn't think he's getting one now. (Michael Crater photo)

GYMNASTICS CLASSES for ages 18 mo. to teens Mr. Nelson Gymnastics Academy 442-1948		ADULT BALLET CLASSES Adela Avner 443-1887
CONTINENTAL CLOGGERS Linda Fowler/Late Kaufman 442-8281/443-2518	CHILDREN'S COMBINATION CLASSES Mr. Nelson Dance Academy Step Brown 443-4823	
	JAZZ DANCE CLASSES Mr. Nelson Dance Academy Suzanne Kowalski 442-8888	EARLY MOVEMENT PRESCHOOL 442-7233 Step Brown/Cord Stamos 443-4829/448-7267
BALLET CLASSES Mr. Nelson Dance Academy Jane Smith 442-8285		CHILDREN'S COMBINATION Tap/Ballet/Tumbling Joan Christopher 458-5887
MARIANNE'S SCHOOL OF DANCE Tap, Ballet, Jazz Acrobatics, Baton, Aerobics 442-3581	TAP DANCING, DANCE AEROBICS Lorin Mills 443-2947	
	PREGNANCY FITNESS New Mother Fitness Linda Brown 443-8436	COMPETITION & PERFORMANCE BATON TWIRLING Sherry Gillespie 833-5738

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This week's biggest stones found by:

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- Joe H., 27.54 carats
- Alan Piedman, Hawaii, 13.90 carats

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Big game calendar

BIG GAME	SEASON
Antelope	September 6 to October 11 October 12 to November 9
Bear	April 15 to November 30 Pending commission action
Deer & Elk	September 6 to October 11 September 15 to November 30 October 26 to November 30
Mountain goat & moose	September 15 to November 30
Mountain lion	September 15 to February 15 February 16 to April 30
Bighorn sheep	September to December 15

SB 352
March 10, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

The department supports SB 352 as it currently impacts elk management; however, there are several concerns regarding its implementation that we would like to note. The A-7 license is an elk license that allows the taking of an antlerless elk in a designated area. The holder of an A-7 license cannot hold an A-5 general elk license, and therefore gives up the opportunity to hunt elk of either sex anywhere else in the state.

Currently there is only one hunting district in the state, HD 443, which has 100 A-7 licenses available on a permit or drawing basis. This bill would mean that 10 of these would go to nonambulatory handicapped individuals.

The A-7 concept, however, has been under discussion for broader statewide application which could result in 10% of all cow permits eventually being converted to the A-7 license group. There begins to be a substantial cumulative impact on the general hunting public when bills such as SB 219 giving 15% preference to landowners for elk permits and SB 352 providing additional preference to another group are considered.

The cost for the department to implement a preference system for an estimated 200 nonambulatory disabled is about \$8,000 or \$40 for each potential applicant.

Elk permits or licenses are considered a valued commodity by most Montanans and demand exceeds supply by a greater margin than for more common deer or antelope. The potential implications of this bill should clearly be understood prior to its passage. However, this is a policy decision and should the legislature decide to approve it, we can and will implement it.

68219
March 10, 1987

Presented by Jim Flynn, Department Fish, Wildlife and Parks

The department supports the 15 percent landowner preference concept for elk permits as provided for in SB 219 as amended.

We have a similar preference system currently in place for deer and antelope by Commission ARM rules as follows:

1. Landowners must own 160 acres or more in the district for which they apply, verified by wardens with county courthouse record searches.
2. The preference includes both resident and nonresident landowners.
3. The preference is for deer B licenses, deer permits and antelope licenses which are all on a drawing.
4. The preference has been set annually by the commission and may be adjusted according to population levels. The preference has been normally at 15%, but in high population years has been 10%.
5. A landowner can designate any other person for preference as long as the person is immediate family or a ranch employee.
6. Applicants have to apply for their first choice in the drawing.
7. Unsuccessful applicants are entered into the drawing with all of the other nonlandowner applicants so landowners get two drawing chances.
8. No preference is allowed if the land is totally within the boundaries of public land.

The ratio of landowner applicants to quota numbers would be considerably different for elk than for deer and antelope in that there are fewer elk permits and they are generally in greater demand.

We believe the bill should accommodate those landowners that have significant annual elk use. As currently written there is no accommodation for minimum acreage or a verification of elk use on the landowner's property. The only requirement is residence in a hunting district that has elk permits issued which would allow any individual in a permit area including residential and agricultural landowners an opportunity for the 15% allocation. Given the assumption we are trying to provide for opportunities

to landowners who have elk use on their property, the department recommends to the committee the following items for amendment:

1. A minimum of 640 acres of contiguous land in fee title ownership.
2. A qualification of annual elk use on the property.
3. That the landowners also be eligible to receive up to 15% of the A-7 cow elk licenses.
4. An opportunity for the successful landowner preference elk permit or A-7 cow elk license holder to hunt in the entire area for which the permit or A-7 cow elk license is valid.
5. Corporate landowners would also be eligible for landowner preference with the opportunity to designate a member of the corporation for the preference.

With these amendments we can support SB 219

AMENDMENTS TO SB 219
THIRD READING (BLUE) COPY

DATE (46)
DATE 3-10-87
BB 219

REQUESTED BY DEPARTMENT OF FISH, WILDLIFE & PARKS

1. Page 2, line 1.

Following: "section"

Strike: "shall be issued"

Insert: "is entitled"

2. Page 2, line 2:

Following: "application,"

Insert: "to the preference under this section for"

Following: "elk"

Strike: "on land owned by him."

Insert: ", provided that:

(A) the applicant owns in fee simple a minimum of 640 acres of contiguous land within the hunting area for which the permit is to be issued;

(B) elk, on an annual basis, regularly utilize the land owned by the applicant as verified by the department."

3. Page 2, line 6:

Following: "LANDOWNER"

Insert: "Where the real property is held jointly or in common by several persons, only one of the joint or common owners is entitled to the preference; the owner or owners may designate any other person as entitled to their permit if such other person is a member of their immediate family or is employed by such owner or owners."

4. Page 2.

Following: line 9

Insert: (5) Fifteen percent of the A-7 cow elk licenses available each year must be available to landowners under subsection (2).

(6) A permit or license issued under subsection (2) is valid for the entire hunting area for which the permit or A-7 elk license is valid.

Renumber: Subsequent subsection



MONTANA CATTLEMEN'S ASSOCIATION INTL

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3/10

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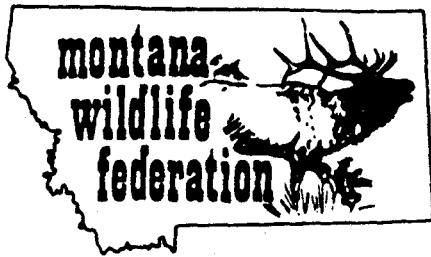
5-219

TESTIMONY IN SUPPORT OF SB 219

House Fish and Game Committee

Mr. Chairman, the logic behind this bill should be especially obvious. Private landowners across the state provide much of the habitat and forage for our game animals. In areas with elk populations, ranchers often experience severe losses of stored hay in stacks. Since elk destroy and foul much more feed than they actually eat, these losses can be extensive.

After contributing so involuntarily to the welfare of an elk herd, it seems only fair that a landowner should have first chance at any licenses or permits issued. We hope that your committee will give SB 219 the same favorable action it received in the Senate.



EDUCATION - CONSERVATION

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

P.O. Box 3526
Bozeman, MT 59715
(406) 587-1713

Testimony on SB 219

House Fish & Game Committee

March 10, 1987

EXHIBIT (6)
DATE 3-10-87
SB 219

Mr. Chairman, members of the Committee, my name is Esther Stenberg. I'm here representing the Montana Wildlife Federation in their support of SB 219 in its amended form.

The Montana Wildlife Federation supports the idea of allowing a landowner a better opportunity to secure an elk permit if the landowner's property provides forage for elk herds.

In the Senate Fish & Game Committee the Montana Wildlife Federation recommended that only 10% of the total permits be made available for landowner preference. The Senate chose to allow 15% instead. The Montana Wildlife Federation can live with that amendment but asks that the committee seriously consider the effects of setting aside more and more licenses for special classes of applicants.

In addition, the Montana Wildlife Federation would like to limit the eligibility standards - requiring that the landowner own a minimum of 640 contiguous acres within the hunting district, not including leased acreages or government lands. This limitation is in line with recent Idaho legislation regarding this same issue.

Mr. Chairman, members of the Committee, the Montana Wildlife Federation urges your consideration of the above possible amendments to SB 219. Thank you.

