

MINUTES OF THE MEETING  
FISH AND GAME COMMITTEE  
MONTANA STATE SENATE

February 17, 1987

The meeting of the Senate Fish and Game Committee was called to order at 1:00 P.M. on February 17, 1987 by Chairman Ed Smith in Room 402 of the Capitol Building.

ROLL CALL: All members were present with the exception of Senator Jacobson who was excused to present a bill at another committee hearing.

DISPOSITION OF SENATE BILL 243: Senator Vaughn distributed amendments to the committee. The amendments addressed the permits for out-of-state boats operating on Montana waters. The proposed amendments designate the authority to the county to decide if there will be a permit charge for the out-of-state boats. The legislation is not a state-wide law, but allows the counties to make the decision. The revenue generated from the sale of the permits will benefit the counties that elect to charge the fee. Senate District No. 1 will use the revenue to build better boat ramps, thus, accommodating the influx of out-of-state boaters. (Exhibit I)

Director Flynn, Fish, Wildlife and Parks, stated approval of the amendments.

Senator Yellowtail asked about the amount of the fines. Senator Vaughn said that the amount of the fines could be negotiated. The Montana counties will not charge the the out-of-state counties if they do not charge Montana residents boat fees.

Senator Bengtson asked if the revenue generated from the fines would be used to build more boat ramps. Yes. Federal funds have been matched at the Rexberg Marina. Senator Bengtson asked if the marina is federally funded. Will the Department of Fish, Wildlife and Parks match funds. Director Flynn stated that the Department works with the Federal Government on various water base areas in Montana. The Department does not predict there will be Department funds used for this project. The permit generated funds could be used with Forest Service funds to build ramps and make other improvements. Canyon Ferry Lake is an example of a federal project administered by the Fish, Wildlife and Parks Department.

Senator Smith asked if the \$100 fine is comparable to the other state's fine. Director Flynn stated that the citation bond amounts are established by the Justice of the Peace in each respective county. The statutes states the fine is up to \$100 according to the discretion of the local jurisdiction.

Senator Yellowtail asked to be excused to present a bill in another committee hearing.

Andrea Merrill discussed fine amounts for similar circumstances. A boat decal violation is punishable by a fine of not less than \$15 or more the \$500, or imprisonment up to six month. The snowmobile decal violation is not less than \$10 or more than \$50. Senator Severson moved the committee recommend a fine not to exceed \$50. The motion passed with one no vote.

Senator Jergeson recommended a DO PASS AS AMENDED on SB 243. The motion passed with with Senator Bengtson voting no.

CONSIDERATION OF SENATE BILL 320:

Senator Robert J. Brown, District No. 2, sponsor of SB 320, stated the bill was introduced at the request of the Department of Fish, Wildlife and Parks. Senator Brown explained the bill is an act to establish a fish and wildlife mitigation trust fund and to establish the Department as trustee of the account. Section one established the trust fund which will included donated money, requested money, gift money and the interest that accrues on the money in the fund. The purpose of the fund is to mitigate for the loss of the wildlife habitat, such as dam construction or the creation of a reservoir. The Department can enter into agreements or contracts with the doners of the money to assure the money is used for certain purposes. The principal or interest of the trust fund can be appropriated or spent by the Department. The Board of Investment will invest the trust fund money, and the interest will become the property of the trust. The bill allows the mitigating trust fund revenue to combine with existing trust revenue.

PROPCONENTS:

Jim Flynn, Director of the Fish, Wildlife and Parks Department offered written testimony in support of SB 320. (Exhibit 2)

Morris Brusett, Montana Member of the Northwest Power Planning Council offered written testimony describing the purpose of SB 320. (Exhibit 3)

Dane Field, Montana Audubon Legislative Fund, offered written testimony in support of SB 320. (Exhibit 4)

Stan Bradshaw, State Council of Trout Unlimited, stands in favor of SB 320.

Esther Stenberg, Montana Wildlife Federation, supports SB 320.

OPPONENTS:

There were no opponents to SB 320.

QUESTIONS FROM THE COMMITTEE:

Senator Bengtson asked for a breakdown concerning the expected funding of the trust account. Approximately \$10 million will be set aside. One and one-half million dollars would be up-front money, and the additional money would be paid over a period of ten years. The money is for the damage at Hungry Horse and Libby Dams, and will be funded by the Bonneville Power Administration. Part of the total amount would be funded by the Mid Columbia Dams, which benefit from the Hungry Horse and Libby Dams.

Senator Bengtson asked what percent of the Northwest Cooperative Power is directed to Montana. The total is approximately .8% of the revenue: approximately \$2 billion a year. There are six cooperative and 47,600 hookups. The amount of each hookup is \$27.31.

Senator Bengtson asked for an overview of the entire package. Mr. Brusett explained the legislation will benefit the damages attributed to hydropower. If the funds are not paid through the trust arrangement, the Bonneville Power Administration will pay \$16 million over a 35 to 40 year period. Pursuant to the requirements of the Northwest Power Act, the money is available, and Bonneville has agreed to the proposal. Less money is put into the trust, the principal amount is reduced, but interest is being earned. The concept will provide a guarantee that Montana will receive the money.

Senator Severson asked about the revenue and usage of the power within the state of Montana. Bonneville's revenue of .8% of 1% is paid by the Western Montana Cooperatives.

Senator Robert Brown closed the hearing.

DISPOSITION OF SENATE BILL 320:

Senator Jergeson moved the committee to recommend a DO PASS on SB 320. The motion passed unanimously.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 219: Andrea Merrill stated the intention of the sponsor was that the landowner would be hunting in a permit area. Discussion followed.

Ron Marcoux explained the landowner would have the opportunity to hunt within the territory of the permit district.

Senator Bengtson moved the committee to accept the amendment number (ii). The motion passed.

Senator Severson stated that verification of the time the elk spend on a particular tract of land is not acceptable.

Senator Bengtson asked how many elk permits are granted each year. Mr. Marcoux stated there are approximately 22,000 permits issued out of 80,000 applications.

Andrea Merrill was requested to reword the amendments for the committee approval.

ADJOURNMENT: There being no further business to come before the committee, the committee hearing adjourned at 2:47 P.M.

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SENATOR ED SMITH, Chairman

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*Ed Smith*

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SENATOR ED SMITH, Chairman

ROLL CALL

SENATE COMMITTEE--FISH AND GAME

50TH LEGISLATIVE SESSION - 1987

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Date: February 17, 1987

| NAME                                 | PRESENT | ABSENT | EXCUSED |
|--------------------------------------|---------|--------|---------|
| Senator Ed Smith, Chairman           | X       |        |         |
| Senator John Anderson                | X       |        |         |
| Senator Judy Jacobson                |         |        | X       |
| Senator Elmer Severson               | Y       |        |         |
| Senator Greg Jergeson                | Y       |        |         |
| Senator Al Bishop                    | X       |        |         |
| Senator Esther Bengtson              | X       |        |         |
| Senator Wm. Yellowtail<br>Vice-Chair | X       |        |         |



Vaughan

SOUTH CAROLINA FISH AND GAME

EXHIBIT NO. 41

DATE 2-17-87

BILL NO. SB 320

Amendments to SB 243, white copy.

1. Title, line 4.  
Following: "TO"  
Insert: "ALLOW A COUNTY TO"

2. Title, line 5.  
Following: "OPERATION OF"  
Insert: "CERTAIN"

3. Title, line 6.  
Following: line 5  
Strike: "MONTANA"  
Following: "WATERS"  
Insert: "WITHIN THE COUNTY"

4. Page 2, lines 3 and 4.  
Strike: "department" on line 3 through "law" on line 4  
Insert: "county in which the boat is being operated if that county requires a temporary permit for out-of-state motorboats, as provided in [section 2]"

5. Page 2, line 18. :  
Following: "(1)"  
Strike: "The"  
Insert: "A"  
Following: "permit"  
Insert: "may be"

6. Page 2, line 19.  
Following: "by"  
Strike: "23-2-511(1)(c)"  
Insert: "a county for operation of a motorboat on waters within the county if the motorboat is from a state that requires a similar temporary permit for operation in that state of a motorboat licensed in Montana. The permit"

7. Page 2, line 20.  
Following: line 19  
Strike: "department"  
Insert: "county"

8. Page 2, lines 22 and 23.  
Following: "days"  
Strike: remainder of line 22 through "state" on line 23  
Insert: "within the county"  
Following: "The"  
Strike: "department"  
Insert: "county"



Vaughan  
Page 2

9. Page 3, line 8.  
Following: "the"  
Strike: "department"  
Insert: "county"

NO. #1 - pg 2  
DATE 2-17-87  
BILL NO. SB 320

10. Page 3, lines 9 and 10.  
Following: "be"  
Strike: remainder of line 9 through "department" on line 10  
Insert: "used"

11. Page 3, line 11.  
Following: line 10  
Strike: "boating" through "state"  
Insert: "compliance with the temporary permit"

12. Page 3, lines 13 through 20.  
Strike: sections 3 and 4 in their entirety

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SB 320  
February 17, 1987

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

This bill would establish a trust fund for fisheries and wildlife mitigation from construction of hydropower projects.

The Northwest Power Planning Act and the Federal Power Act contain provisions for the mitigation of impacts to fish and wildlife that result from the construction and operation of hydroelectric facilities. Pursuant to these acts, the Department of Fish, Wildlife & Parks has entered negotiation with the Northwest Power Planning Council, Bonneville Power Administration, federal and private hydroelectric operators, and representatives for the utilities throughout the Pacific Northwest to secure appropriate fish and wildlife mitigation in Montana.

The negotiations have identified a mitigation trust as the appropriate means to finance certain mitigation projects. Creating a trust provides a secure funding base for mitigation projects and reduces the overall cost and long-term financial obligation of the hydroelectric operator and its rate payers.

The department has received a commitment from Montana Power Company for use of a trust to purchase water to enhance streamflow in the Bitterroot River. In addition, wildlife mitigation plans for Hungry Horse and Libby reservoirs are nearing approval by the Northwest Power Planning Council. The Bonneville Power Administration is considering the use of a trust to fund those projects. The concept is endorsed by the Montana Rural Electric Cooperatives. The department is negotiating with Montana Power Company for wildlife mitigation at Thompson Falls. A trust may be included in the final agreement. Further, the department expects to participate in additional mitigation projects during the next decade as relicensing procedures are initiated for existing facilities.

Senate Bill 320 would authorize the department to receive mitigation trusts and assure that these trusts are used solely for their intended purpose.

The department is not requesting appropriation authority for expenditure of trust revenues at this time, but would anticipate doing so in the 1989 legislative session.

## T E S T I M O N Y

Senate Bill 320  
February 17, 1987

Mr. Chairman, Members of the Committee, for the record my name is Morris Brusett, Montana Member of the Northwest Power Planning Council. The Council is a regional organization made up of two representatives each from the states of Montana, Idaho, Oregon and Washington. It is responsible for developing a regional electric energy plan, and a program to restore fish and wildlife that were damaged as a result of hydroelectric development.

The Montana Council members support SB 320. This legislation will facilitate implementation of actions in Montana called for in the Council's Fish and Wildlife Program.

Pursuant to requirements of the Northwest Power Act, the Council recently approved a mitigation plan for Hungry Horse and Libby Dams. The plan calls for funding from the Bonneville Power Administration for activities necessary to restore wildlife impacted by the construction and operation of these hydroelectric facilities.

The mitigation plans for Hungry Horse and Libby were carefully considered by the Council, and were supported by both fish and wildlife agencies and the utility community in the Pacific Northwest. Attached to this testimony is a list of groups supporting the mitigation plans.

The Western Montana Generating and Transmission Co-operative and the Pacific Northwest Utilities Coordinating Committee have proposed using a trust to fund the mitigation plans. A copy of the G & T's recommendation is also attached. A trust arrangement would be beneficial because it would require a lesser amount of up-front financing from the region's ratepayers. From a program implementation perspective, a trust would provide greater certainty of funding the activities over the long term.

The Council has directed Bonneville to consider a trust as a way to fund the Hungry Horse and Libby mitigation plans. The Montana Council members are working with Bonneville to explore possibilities of using this method to fund Montana's mitigation efforts.

Attachments

SENATE FISH AND GAME  
EXHIBIT NO. #3 page 2  
DATE Feb 17, 1957  
BILL NO. 513 320

Support for Hungry Horse and Libby Mitigation Plans

Montana

Western Montana Generating and Transmission Co-operative  
Department of Fish, Wildlife & Parks  
Columbia Falls Chamber of Commerce  
Flathead Audobon Society  
The Wildlife Society (Montana Chapter)  
Flathead Wildlife, Inc.  
Montana Wildlife Federation  
Sierra Club, Flathead Group

Region

Bonneville Power Administration  
Pacific Northwest Utilities Coordinating Committee  
Columbia Basin Fish and Wildlife Council

SENATE FISH AND GAME

EXHIBIT NO. # 2 page

DATE Feb 17, 198

SB 320

STEVEN L. HERNDON  
 ATTORNEY AT LAW  
 227 SOUTH FIRST AVENUE  
 POST OFFICE BOX 1326  
 SANDPOINT, IDAHO 83864  
 (208) 263-2108

*[Handwritten mark]*

December 12, 1986

Northwest Power Planning Council  
 Suite 1100  
 850 S.W. Broadway  
 Portland, Oregon 97205

Attn: Dulcy Mahar, Director  
 Public Information and Involvement

RE: Fish and Wildlife Amendments

Gentlemen:

This comment letter is being submitted on behalf of the Western Montana Electric Generating and Transmission Co-operative, Inc. Although our member systems have participated in the public meetings held to discuss the Fish and Wildlife Amendments, we felt it desirable to provide a short written comment to emphasize our position as a group.

The Western Montana G&T has thoroughly reviewed the Montana Department of Fish, Wildlife and Parks' Mitigation Proposals for both Hungry Horse and Libby Dam. From this review we believe that the Department's proposals are, given the limits of available data, reasonable and technically sound. It is our opinion that a trust agreement should be used to provide both a funding limit and a long term commitment to mitigation at these projects.

The Western Montana G&T recommends that a funding limit of \$10 million be used to establish a trust for the mitigation efforts with the following stipulations:

1. \$1.5 million funding for initial projects (first five years);
2. \$8.5 million invested in a trust over a ten (10) year period;
3. At ten (10) and five (5) year intervals thereafter there should be a review of the continuing need and necessity for the mitigation proposals as well as the opportunity to adjust the income flow from the trust if necessary to offset general inflationary trends in the economy.

It is our understanding that the Montana Department of Fish, Wildlife and Parks considers this to be a reasonable proposal if it is possible for the Bonneville Power

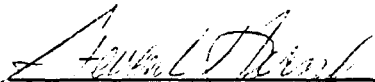
SENATE FISH AND GAME  
 EXHIBIT NO. # 2 Page 4  
 DATE Feb. 17, 1987  
 BILL NO. SA 320

DEC 17 1986

Northwest Power Planning Council  
December 12, 1986  
Page Two

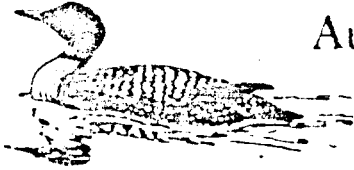
Administration to establish the trust. make a substantial initial deposit to the trust and agree that adjustments to the trust can be made. To this end we intend to participate in a meeting with the Department and the Bonneville Power Administration in Spokane, Washington, on January 27, 1987 for the purpose of working out the final trust arrangements.

Sincerely,



STEVEN L. HERNDON  
Western Montana G&T

SENATE FISH AND GAME  
EXHIBIT NO. 43 pg 5  
DATE 2-17-87  
BILL NO. 513320



Montana  
Audubon Legislative Fund



P.O. Box 924  
SENATE FISH AND GAME

EXHIBIT NO. #4

DATE Feb. 17, 1987 February 17, 1987

BILL NO. SB 320

Mr. Chairman and Members of the Committee;

My name is Dana Field and I represent the Montana Audubon Legislative Fund. The Audubon Fund is composed of members of the National Audubon Society, which includes 2500 members in nine chapters throughout the state.

The Audubon Fund strongly supports Senate Bill 320.

Mitigation of development impacts on fish and wildlife is a good idea and is often required by statute. SB 320 provides for another option for funding this mitigation. Enhancement of wildlife resources is funded from a variety of sources, and adding another option here likewise relieves the pressure on those other funds.

This bill allows the Department to accept gifts for these purposes in a variety of forms. By whatever mechanism of contribution, the Department should be allowed to negotiate the terms and specific purposes of such an agreement. SB 320 simply gives the Department the latitude to enter into such agreements as may be necessary to encourage and accept these contributions.

I'm sure the legislature is sorely aware that they are not in a defensible position to place obstacles to voluntary contribution that would benefit a public interest.

Thank you.



# STANDING COMMITTEE REPORT

February 17, 1997

19.....

MR. PRESIDENT

**Fish and Game**

We, your committee on.....

**Senate Bill**

**243**

having had under consideration..... No.....

**First** reading copy ( **White** )  
color

**NONRESIDENT BOATING PERMIT**

**Senate Bill**

**243**

Respectfully report as follows: That..... No.....

be amended as follows:

1. Title, line 4.

Following: "TO"

Insert: "ALLOW A COUNTY TO"

2. Title, line 5.

Following: "OPERATION OF"

Insert: "CERTAIN"

3. Title, line 6.

Following: line 5

Strike: "MONTANA"

Following: "WATERS"

Insert: "WITHIN THE COUNTY"

4. Page 2, lines 3 and 4.

Strike: "department" on line 3 through "law" on line 4

Insert: "county in which the boat is being operated if that county requires a temporary permit for out-of-state motorboats, as provided in [section 2]"

DO PASS

(CONTINUED)

DO NOT PASS

.....  
Chairman.

5. Page 2, line 18.

Following: "(1)"

Strike: "The"

Insert: "A"

Following: "permit"

Insert: "may be"

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Insert: "within the county"

Following: "The"

Strike: "department"

Insert: "county"

9. Page 3, line 7.

Strike: "\$100"

Insert: "\$50"

10. Page 3, line 8.

Following: "the"

Strike: "department"

Insert: "county"

11. Page 3, lines 9 and 10.

Following: "be"

Strike: remainder of line 9 through "department" on line 10

Insert: "used"

(CONTINUED)

February 17, 1987

..... 19.....

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Following: line 10

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Insert: "compliance with the temporary permit"

13. Page 3, lines 13 through 20.

Strike: sections 3 and 4 in their entirety

7048j/L:JEA\WP:jj

AND AS AMENDED,  
DO PASS

.....  
SENATOR ED SMITH, Chairman

# STANDING COMMITTEE REPORT

February 17, 1987..... 19.....

MR. PRESIDENT

**Fish and Game**

We, your committee on.....

**Senate Bill**

**320**

having had under consideration..... No.....

**First**

**White**

\_\_\_\_\_ reading copy ( \_\_\_\_\_ )  
color

**WILDLIFE MITIGATION TRUST FUND**

**Senate Bill**

**320**

Respectfully report as follows: That..... No.....

~~DO PASS~~

DO NOT PASS

**SENATOR ED SMITH,**

Chairman.