

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON FISH AND GAME

Call to Order: By Chairman Severson, on February 17, 1989,  
at 7:00 a.m. in Room 402 at the State Capitol.

#### ROLL CALL

Members Present: Sen. Elmer Severson, Sen. John Anderson,  
Jr., Sen. Judy Jacobson, Sen. Al Bishop, Sen. Paul  
Rapp-Svrcek, Sen. Loren Jenkins, Sen. Bill Yellowtail.

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council

Announcements/Discussion: Sen. Severson apologized for  
calling the meeting on SB 446 without much notice. He  
decided it was necessary to schedule it.

#### HEARING ON SENATE BILL 446

##### Presentation and Opening Statement by Sponsor: Sen.

Yellowtail stated that this bill came to his attention recently. I was unaware that negotiations between the confederated Salish and Kootenai Tribes in this state were going on in this manner. But I have been long an advocate for cooperation, whenever possible, in negotiated compromise regarding the many and complex issues that arise between tribes and state here in Montana. This marks an important step. I am hopeful that this will become a model for the rest of the state. The alternative is costly and painful litigation. The difficulty with litigation is that someone loses. Hopefully, with a negotiated agreement everybody wins. Recently the Crow Tribe was not able to achieve a negotiated settlement, and as a result, the State lost. Previously, the state was not able to come to a reasonable agreement over the Big Horn River. That went to the Supreme Court at great cost to all parties and the Crow Tribe lost. This bill does not represent the agreement itself, it represents the vehicle by which the state will be authorized to continue the negotiations. I urge support of this bill.

List of Testifying Proponents and What Group they Represent:

Fred Matt, Vice Chairman of Confederated Salish & Kootenai Tribes  
Former Gov. Ted Schwinden, on his own behalf  
Jim Flynn, Former Fish, Wildlife & Parks Director, on his own behalf  
Ray Harbin, Lake County Board of Commissioners  
Stan Bradshaw, Trout Unlimited  
Dan Decker, Tribal Attorney with Salish & Kootenai Tribes  
Alan Newell, Consulting Historian from Missoula  
Sen. Ethel Harding, Senate District #25  
Rep. John Mercer, House District #50  
Rep. Ervin Davis, House District #53  
Sen. Dick Pineseault, Senate District #27  
Glen Marks, Gov. Stephen's office

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Fred Matt presented testimony given by Mickey Pablo, Chairman of the Tribal Council of the Confederated Salish & Kootenai Tribes, on February 16, 1989 at a Missoula press conference. See Exhibit #4.

Gov. Ted Schwinden stated he is appearing on his own behalf. I have a great deal of experience in negotiations with the Salish and Kootenai Tribes subsequent to the issuance of Ordinance 44D. Mr. Flynn initiated conversation with the Salish and Kootenai leadership, with the county commissioners, attended public meetings and met with the tribal council. They were long and difficult, but in the end we produced a result which has been said was an historic agreement. This agreement has the potential, if implemented, to join with the other historic agreement which Sen. Jack Galt, member of the Montana Water Compact Commission, negotiated with the Sioux and Assiniboine Tribes on the Fort Peck Reservation; which is still a unique first for Montana. I concur fully with Sen. Yellowtail's and the chairman of the Salish and Kootenai Tribe's assessment that this agreement, if implemented, will also set a new landmark in non-required (non-mandated by a court) cooperation between a state government and a tribe. All members of this committee and the senate and house are fully aware of the kinds of jurisdictional issues that have traditionally plagued the discussions between the state and the various tribal

entities around the state of Montana. I hope the committee weighs very carefully in deciding to proceed with the agreement.

Jim Flynn stated he is here on his own behalf. This bill deals with the authority toward the state of Montana, specifically the Department of Fish, Wildlife and Parks, to take certain actions that does not mandate those actions.

The agency spent two years over this issue. This started in 1986 with the Tribal Council's Ordinance 44D. The Department asserted their authority over non-tribal lands for management within fish and wildlife resources. The result of these two actions was very difficult for sportsman who recreated within the reservation boundaries. They had no idea which of those authorities they should be abiding by. There was the question of licensing as well as rules and regulations. In addition, we received concern expressed by county commissioners of Lake County for a solution to the problem.

We met with many legal factions about this. Two main things came out of our meetings. There were unanimous opinions that the issue was extremely complex and there was no clear case to state Montana's position. The second thing was that resolutions through the court system would be costly and time consuming. We met with the tribes and the Lake County commissioners and held public meetings. The key points we heard was that the concern was mainly what would happen to non-tribal members who might violate Fish and Game regulations on the reservation. Were they to go to non-tribal court or tribal court. The clear message we got was non-tribal court. The second concern we heard was for non-tribal members to decide on the reservation being required to purchase two licenses. The third concern we heard was how to enforce fish and wildlife rules and regulations, as well as the need for one set of regulations for the reservations.

These concerns we heard in Lake County were the driving force used in the discussions held with the tribal members. The proposed agreement that this bill will authorize the new administration to consider, contains each of those concerns addressed. I have to stress that the road to this agreement is a very long and arduous one.

Ray Harbin stated the Lake County Board of Commissioners

represents approximately 22,000 people of both tribal and non-tribal members. One of the overriding concerns in our county is to muster a spirit of cooperation between all entities that we represent. In that spirit of cooperation we would very much urge your support for SB 446.

Stan Bradshaw left his testimony. See Exhibit #1.

Dan Decker stated the tribe was concerned because after two long years both parties kept pursuing the agreement. For any tribal council in the state of Montana it is easier for us to go to court. We have had more success in the courts than we have had through discussions with the State. For the Confederated Tribes, this is a new era. We want to cooperate and the emphasis here is not the jurisdiction, but the proper management of a resource. We, the tribes, would be first to say that we put your authority over non-Indian lands and want to insure that we can do that to properly manage the resource. Fish and wildlife do not know boundary lines. That is the key principle behind cooperating at this point. I think this agreement give us the opportunity to do this. We urge you to pass the bill out of committee without amendments.

Alan Newell stated he has worked with state Indian relations for 15 years. I am speaking on behalf of myself today. I was a technical advisor for FWP regarding this issue. The issue now in court deals with the regulation of and management of the resource and the treaty-based right as stated by the courts. No clear resolution has come out of this. The point is, who is going to exercise jurisdiction over some of the parcels within the reservations that have been opened to hunting.

Sen. Ethel Harding offered amendments. See Exhibit #2. The landowners on the reservation would like to be represented. It will be necessary for a peaceable inaction of this legislation. What we bring to you today in these amendments is something that would allow landowners on the reservation to have a say in this.

Rep. John Mercer stated that the tribal headquarters sit in the southern area of his district. This is a very important matter for the people he represents. There needs to be some concern when a bill affecting my area is introduced by a senator from another area. I support the bill with the amendments offered by Sen. Harding. I lived on the reservation most of my life. The problem is, historically the tribal government was

quiet and the citizens who lived on the reservation were under the impression that the federal government had no authority over them. Recently the tribal government has started to exercise the authority it has and that has caused a problem. Everyone wants cooperation. We lose in our area if there is hardship between the Indians and the non-Indians. It also affects our area economically and we don't want that. We also lose if something is forced on the local citizens without their consent.

I think the biggest mistake made by Gov. Schwinden and Mr. Flynn was that they did not involve the local citizens in this process. I would like to thank Gov. Stephens for asking us all down to speak on this issue. First, we had to say that we weren't involved in the negotiations in any way. Second, I had to say that I had never seen a copy of the agreement. We want negotiations to occur but we don't want secret negotiations with the tribe and then force something on the people in our area. This amendment involves the citizens in the process.

Rep. Ervin Davis stated he would like to go on record in support of the bill with amendments.

Sen. Dick Pinsoneault stated that a lot of work has gone into this. I have lived on the reservation all my life and I support this bill wholeheartedly. I support this bill with the amendments proposed by Sen. Harding. I think the citizens of the reservation deserve to be involved. I am a law enforcement officer and there are some practical things about this that concern me. There is the question of cross-deputization and having the tribal official come on non-tribal land and issue a citation to that landowner, when that citation is going to be tried in state court.

Glen Marks stated he is a proponent of a process, which is negotiation. I support this bill.

Questions From Committee Members: Sen. Rapp-Svrcek asked Mr. Marks where the Governors office stands as a whole. We need to know what Gov. Stephens is going to do with this bill.

Answer: This amendment just came up yesterday afternoon. My impression is that the Governor will sign the bill with or without the amendments.

Question: Sen. Rapp-Svrcek asked Mr. Flynn to clear up if there were secret meetings and to what extent the

public was involved.

Answer: Mr. Flynn stated that the FWP did hold private discussions, but there were never secret meetings. We also had meetings at the court house in Polson and invited the public. So, in my opinion there never was a secret meeting. There were private meetings.

Question: Sen. Jenkins asked Dan Decker if we could pass the amendments and pass it onto the House because we are on a deadline.

Answer: Dan Decker stated that the tribal leadership discussed that issue late yesterday once they found out about a referendum. The referendum as posed offers a lot of difficulty to the tribes. This is not a reservation issue this is a state issue. You are asking the Confederated Tribes to consider an amendment which, as drafted, requires us to consider interim agreements for two more years. This is something that tribal leadership finds unacceptable.

Question: Sen. Rapp-Svrcek asked Rep. Mercer where he stands on this bill as a whole. If this bill were to pass with the amendments, to what extent would you involve your self in it.

Answer: Rep. Mercer stated there is a concern about tribal jurisdiction over private lands. I think this is a matter of open and public debate. Where I would stand on it, I just don't know at this time. The tribe does a lot in our area and if it weren't for the tribe, I don't know what the economic situation would be for our area. We need the tribe very badly and we need to cooperate with them.

Question: Sen. Jenkins asked Eileen Shore if the water compact was also voted on by the Fort Peck Reservation.

Answer: Eileen Shore stated that according to her understanding, it was not.

Question: Sen. Yellowtail asked Sen. Harding if there are voter registration lists or some means of determining who all are residents of the reservation so as to be able to offer this referendum fairly.

Answer: Sen. Harding stated that they don't have them at the reservation now, but they could. They would then work from registered voters.

Closing by Sponsor: Sen. Yellowtail stated he is aware of

the controversy that exists over this issue. Roads and weather conditions prohibited opponents from being here but I can't help notice that some folks from that valley were able to be here. Rep. Mercer raised doubts as to my qualification to sponsor this bill. I dispute that, and note that the legislative delegation behind this bill would not sponsor it. I have been viewed as a neutral party, but with some background on the issues. I personally have nothing at stake in this, therefore, my credibility should not be attacked. I think the Salish and Kootenai have demonstrated good faith as well as considerable stability and commitment in taking the first step to ratify an agreement. Litigation is the solution, should this process not be carried forward. Senate Bill 446 represents no mandates, it represents the vehicle for this negotiation process to be carried forward. I must resist the amendment. This is a cumbersome notion and it will be difficult to conduct an election within the boundaries of the Confederated Salish and Kootenai Tribes. We have to carry forward with this bill as it stands.

#### DISPOSITION ON SENATE BILL 446

Discussion: Sen. Rapp-Svrcek stated that there is a vocal group of people who would be affected by this and they feel they have been cut out of the process. But, calling for a public referendum on the agreement is not workable and has large ramifications for some of the other negotiations the state is involved in with the other tribes in the state. I think this would take us down a costly and wrong path. The intent of this amendment is to assure that before this agreement can be signed by the state that the Department will hold public meetings in the area affected.

Sen. Yellowtail stated that he is reluctant to tamper with this because we heard ample implication this morning that there has been extensive public information about this subject. The parties that need to be party to the agreement are the State and the tribe. This amendment is a compromise position and I am willing to support Sen. Rapp-Svrcek's amendments.

Sen. Severson asked Sen. Rapp-Svrcek how he would respond if the committee adopted both amendments. He stated that it would be equal to scuttling the agreement. The tribe will not accept that amendment.

Sen. Bishop pointed out that all the legislators from

that area were in accord with the first amendments that Sen. Harding introduced.

Sen. Jacobson pointed out that the agreement is touchy, and the people involved in purchasing licenses in this area are not just from the local area, they are from out of state also. The referendum picks up public input from just that area. Sen. Rapp-Svrcek's amendment allows anyone in the state to have public input. That is more reasonable.

Sen. Rapp-Svrcek reminded Sen. Bishop that this reservation comprises a major part of his district as well.

Sen. Bishop stated he thought the people who have to live there should be the ones to decide this. Sen. Rapp-Svrcek stated he would agree wholeheartedly and that is why this is drafted so it cannot be signed off on until after the hearings have been held. I would ask the Department, if this amendment passes, that it be made clear to those people that if this does not pass what the possibility is in terms of litigation and what they might end up with.

Amendments and Votes: Sen. Rapp-Svrcek moved to pass the amendments he introduced. There was a roll-call vote and the amendments passed. See Exhibit #3.

Recommendation and Vote: Sen. Jacobson moved the bill as amended. It passed on a voice vote. DO PASS AS AMENDED.

#### ADJOURNMENT

Adjournment At: The hearing adjourned at 8:25 a.m. The Executive Session started at 1:10 p.m. in Room #102 and adjourned at 1:23 p.m.

  
ELMER D. SEVERSON, Chairman



ROLL CALL

FISH AND GAME

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2/17/89

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NAME	PRESENT	ABSENT	EXCUSED
Sen. Elmer Severson	X		
Sen. John Anderson Jr.	X		
Sen. Judy Jacobson	X		
Sen. Al Bishop	X		
Sen. Paul Rapp-Svrcek	X		
Sen. Loren Jenkins	X		
Sen. Bill Yellowtail	X		

Each day attach to minutes.

SENATE BILL 446

Testimony of Stan Bradshaw  
Senate Fish and Game Committee  
February 17, 1989

Mr. Chairman, members of the committee, I am testifying on behalf of the Montana Council of Trout Unlimited in favor of Senate Bill 446.

For many years, the Montana Department of Fish, Wildlife, and Parks and the Confederated Salish and Kootenai Tribes engaged in bitter and often vitriolic clashes over jurisdiction to manage fish and wildlife on the Flathead Reservation and over the rights of tribal members to hunt outside the Reservation. The real loser in all of this dispute was the fish and wildlife resource.

Over the past three years, there has been an unprecedented effort on the part of both the tribes and state to set aside their differences, do away with the posturing and petty bickering, and reach some accord. I know from talking to people on both sides that it has been a slow and painful process. Nonetheless, they have made real progress towards a cooperative solution towards the problems that have plagued the past.

SB 446 will allow both parties to complete the negotiations successfully. It puts to rest issues that have long been the focal point for dispute and, by authorizing a cooperative board, paves the way for real cooperative fish and wildlife management in the future. The ultimate winner in all of this will be not only the sportsman who hunts and fishes the Flathead area, but the fishery and wildlife resource as well.

I urge your support for Senate Bill 446.

SENATE FISH AND GAME  
EXHIBIT NO. 1  
DATE February 17, 1989  
BILL NO. SB 446

Amendments to Senate Bill No. 446  
First Reading Copy

For the Committee on

Prepared by Greg Petesch  
February 16, 1989

1. Title, line 5.

Following: "PARKS"

Insert: ",UPON APPROVAL OF A REFERENDUM,"

2. Page 2, line 15.

Following: line 14

Strike: "and conclude"

3. Page 4, line 10.

Following: "agreement"

Strike: "entered into"

Insert: "negotiated"

4. Page 4, line 12.

Insert: "(3) Before an agreement negotiated under subsection (1) may be approved by the state, the proposed agreement must be submitted to and approved by the qualified electors residing within the exterior boundaries of the Flathead reservation. The referendum must be held in conjunction with a regularly scheduled general election. The secretary of state shall prepare and distribute the ballot for the referendum.

NEW SECTION. Section 2. Nonseverability. It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part and if one part is held unconstitutional or invalid, all other parts are invalid."

SENATE FISH AND GAME

AMENDMENT NO. 2

DATE February 17, 1989

BILL NO. SB 446

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration SB 446 (first reading copy -- white), respectfully report that SB 446 be amended and as so amended do pass:

1. Title, line 15.

Following: "COURTS;"

Insert: "PROVIDING FOR PUBLIC MEETINGS AND COMMENT PRIOR TO CONCLUSION OF A NEGOTIATED AGREEMENT;"

2. Page 4.

Following: line 11

Insert: "(3) Prior to concluding any agreement under this section, the department shall hold public meetings, after proper public notice of the meetings has been given and the proposed agreement has been made available for public review, to afford an opportunity to comment on the contents of the agreement."

SENATE FISH AND GAME

EXHIBIT NO. 3

DATE February 17, 1989

BILL NO. SB446

AND AS AMENDED DO PASS

Signed Elmer D. Severson  
Elmer D. Severson, Chairman

Statement of Mickey Pablo  
Chairman of the Tribal Council  
of the Confederated Salish and Kootenai Tribes

Missoula Press Conference—February 16, 1989

Good morning. I'm Mickey Pablo, Tribal Council Chairman of the Confederated Salish and Kootenai Tribes.

We're here today because an historic agreement that can benefit all Montana citizens is in jeopardy of being lost.

It is an agreement which sets forth a vision for future state and tribal relations, a vision of cooperation not litigation. It's a vision, we think, Montanans wholeheartedly support.

Two years ago, Governor Ted Schwinden invited the Confederated Salish and Kootenai Tribes to negotiate with the Montana Department of Fish, Wildlife & Parks for a solution to the problems of dual wildlife management, enforcement, and licensing systems that have frustrated hunters and fishermen on the reservation.

Both sides found common ground. Without giving up either tribal or states' rights, we reached an agreement that's fair to everyone. That protects and enhances the fish and wildlife resources. It's good for all of Montana.

Today, Senator Bill Yellowtail introduced legislation to implement the agreement. But it is already in danger. There are only five days for the Senate to act.

Time is of the essence. Time is our number one enemy. But time is not our only enemy. This landmark agreement is under attack by ACE, a small fringe group of people who don't represent the mainstream of Montanans. ACE prefers to kill legislation that's good for Montana. They prefer litigation, not negotiation.

There is too much at stake to allow this to happen. The circumstances demand leadership. Leadership from Governor Stan Stephens; leadership from legislators; leadership from everyone who cares about fish and wildlife resources.

For two years, state and tribal leaders negotiated in good faith. This historic agreement is too important to be lost in the shuffle of a busy legislative session.

We're not alone in our belief. We can tell you that just last night, recognizing the urgency of the matter, Montana Trout Unlimited endorsed

the legislation. And while we can not speak for the Lake County Commissioners, we can tell you they are anxious to express their views to the media on this topic. They are in Helena and are prepared to make a statement.

What's decided in the next few days in Helena will not only affect the Flathead Reservation, but every Native American homeland across Montana.

In summary, we and others believe this agreement represents a new era in state-tribal relations. The time to act is now.

Thank you for coming. We would be happy to answer questions.

## Chronology of Events Tribal Fish & Game Agreement

July 16, 1855 - Treaty of Hellgate - Tribes agreed to convey vast expanses of their aboriginal homelands (including nearly all of western Montana) to the United States Government. Approximately 1,243,000 acres were reserved for the tribes, comprising what is today the Flathead Indian Reservation.

Flathead Allotment Act of 1904 - Mandated the allotment of Tribal lands to individual Indians and opened certain Tribal lands to non-Indians.

Indian Reorganization Act of 1934 - The Confederated Salish and Kootenai Tribes', a confederation of American Indian Tribes, are organized under the provisions of the Act and officially recognized by the United States.

Public Law 280 (1953) - expressly precludes the state of Montana from exercising jurisdiction over treaty-based "hunting, trapping, or fishing or the control, licensing, or regulation thereof."

1986 - Tribal Ordinance 44D - Implemented by the Tribes and approved by the United States, 44D was created to license, regulate and control the hunting, fishing and trapping activities of all persons on all lands and waters of the Reservation. Ordinance 44D provided, for the first time, uniform Reservation-wide resource management.

1986 - State of Montana continues to assert jurisdiction over hunting, fishing, and trapping on areas of the Reservation not owned by Indians. Local non-Indian groups voiced strong public opposition to Tribal fish and game regulation.

Early 1987 - State and Tribal governments begin negotiations to resolve jurisdictional, management issues.

September 18, 1987 - Governor Schwinden meets with Tribal Council to personally support the negotiation process.

December 13, 1988 - The State and Tribes reach a historic agreement after lengthy negotiations. The Tribes supplied Governor Schwinden with a signed agreement.

January 1989 - Governor Stephens sworn in. In his State of the State message, Governor Stephens described his policy toward Tribes as one of "unity and cooperation" and said "We are dedicated to work with the Tribes toward a common good."

February 10, 1989 - The Tribes are informed that Governor Stephens will not support or introduce state legislation to authorize public hearings and enactment of the negotiated fish and wildlife agreement.

February 16, 1989 - Senator Bill Yellowtail introduces legislation to authorize the State of Montana to enact the negotiated agreement, after public hearings, if and when the Governor signs the agreement.

## OUTLINE

### 44D Bird & Fish Agreement Confederated Salish and Kootenai Tribes

#### 1. Purpose:

- to provide unitary wildlife and fishing management on the Flathead Reservation
- to simplify the long-standing conflicts between Tribal and State regulations and license requirements for non-members
- not to grant or deny jurisdiction to either government

#### 2. Licensing:

- non-member reservation residents would only have to purchase a single license which is also good off of the Reservation
- non-member non-reservation residents would only have to purchase a single license to hunt and fish on the Reservation

#### 3. Management:

- creates a Flathead Reservation Fish & Wildlife Board consisting of members and nonmembers to propose fish and sport bird regulations
- creates technical committees of state and tribal biologists to study the resources, develop cooperative resource management plans, and propose regulations to the Reservation Fish and Wildlife Board
- the regulations are subject to approved by the State Fish and Game Commission and the Tribal Council, and through arbitration if there is no agreement

#### 4. Term:

- must be approved by end of '89 legislative session
- 5 year life
- terminable on 120 day notice by either party



5. Enforcement:

- tribal and state wardens to be cross deputized
- tribal citations on all trust and Indian-owned lands;  
tribal court
- state citation on lands owned by non-members; state  
court

6. Revenues:

- all license, fine and restitution moneys shall be ear-  
marked for the Reservation-wide fish and wildlife  
programs

7. Signatures:

- signed by tribes on 12/13/88

**BACKGROUND**  
**FISH AND WILDLIFE COOPERATIVE AGREEMENT**

**Agreement History**

In the Treaty of Hellgate, signed in 1855, the Tribes reserved, and the United States Government guaranteed, exclusive fishing and hunting rights on the Flathead Indian Reservation.

In 1986, the Confederated Salish and Kootenai Tribes implemented Tribal Ordinance 44D to license, regulate and control the hunting, fishing and trapping activities of all persons on all lands and waters of the Flathead Reservation.

The Tribal Ordinance, which was approved by the United States Government, represented the first comprehensive, reservation-wide resource management plan in the history of the Reservation.

Ordinance 44D asserted Tribal jurisdiction over all lands -- both Indian-owned and non-Indian-owned -- within the Reservation. The State of Montana, however, continued to assert its own jurisdiction over all non-Indian lands within the Reservation. As a result, recreational users faced an extremely confusing system of licensing, regulation, and enforcement. Hunters and fishermen, for example, were forced to purchase both the State and Tribal licenses in order to comply with these confusing overlapping jurisdictions.

Since the enactment of Ordinance 44D, some local non-Indian groups have voiced strong opposition to Tribal fish and game regulations. Certain factions believe that the State should not negotiate with the Tribes on any level.

**Responsible negotiation pays off**

In an effort to clarify the confusing system of overlapping jurisdiction and avoid costly litigation, the State and the Tribes began negotiations in early 1987.

On December 13, 1988, after 24 months of intense negotiations, the parties agreed to the final language of a state-tribal fish and wildlife cooperative program.

The historic cooperative fish and wildlife program will benefit both Indian and non-Indian hunters and fishermen in a variety of ways:

- . Replacing the cumbersome dual license system with a single license for non-member fishing or hunting on the Reservation.
- . Creating joint technical committees to develop uniform regulations and management plans for both Indian and non-Indian lands, to insure the long-term viability of the area's fish, wildlife, and other natural resources.

- . Creating a joint board to work through tough issues that concern all citizens and make recommendations to the State Fish and Game Commission and the Tribal Council;
- . Encouraging cooperative arrangements between State and Tribal enforcement officials to improve protection of fish and wildlife throughout the Reservation.

Ron Marcoux, interim Director of the Montana Department of Fish, Wildlife and Parks said: "the negotiations just completed and the draft agreement reached represent the most successful negotiations with the Tribes in a number of years."

#### Significant protection for non-Indian sportsmen and sportswomen

In addition to improving long-term management of the Reservation's wildlife and eliminating the confusion over licenses and enforcement, the negotiated agreement contains numerous provisions to protect the rights of non-Indians who wish to hunt or fish on the Reservation.

Under the agreement, neither the State nor the Tribes has conceded any jurisdictional claims.

In addition, the joint management arrangement would give the State input into resource management and enforcement policies affecting the entire reservation -- both Indian and non-Indian lands.

Finally, the agreement specifically states that any non-Indians charged with hunting or fishing violations or other infractions on non-Indian lands within the Reservation will be tried in the State Court system, not in Tribal Courts.

#### A proven track record

The Confederated Salish and Kootenai Tribes value the Reservation's natural resources. The land, water, and wildlife all play an integral role in the culture and lifestyle of the Tribes. The tribes have always worked to protect those resources.

Through responsible land management, the Tribes have proven their commitment to the protection of the Reservation's 1.2 million acres. The Tribes have always reinvested the revenues generated through licenses and recreation permits into fish and wildlife enhancement programs. For example, in 1988 the Tribes collected approximately \$120,000 from fish, wildlife, and recreational permits which revenue was, in turn, earmarked for fish, wildlife, and recreation programs. In the same year, the Tribes spent approximately \$750,000 of additional tribal revenue on Reservation fish, wildlife and recreation programs.

The Tribes' successful Shoreline Protection Board -- composed of Indians and non-Indians -- is proof that cooperative management can benefit the entire Reservation community, in that case the beautiful Flathead Lake shoreline. Building on the success of the Shoreline Board model, the Tribes are presently managing the Reservation electric utility by

delegating management to an Indian/non-Indian Utility Board, and the creation of a similarly structured Consumer Council.

**The next step — legislative action**

The next step — legislative action

While Tribal and State negotiators have hammered out an agreement which addresses all of the major disputes, the agreement will not move forward without positive action by the legislature.

Currently pending before the legislature is a bill which would amend a 1947 statute which authorized certain negotiations with the Salish and Kootenai Tribes.

It is important to realize that this proposed legislation would not implement the agreement; it would merely enable the State to implement the negotiated agreement if and when the Governor were to sign it.

Unless the 1989 Legislature gives the State the authority to enter into new agreements with the Tribes, the proposed fish and wildlife cooperative agreement would fail and two years of hard work would be lost.

**Public involvement is critical**

Passage of this legislation would not, by itself, implement the agreement negotiated by Tribal and State officials. The legislation would set in motion a process of extensive public hearings and comment on the provisions of the negotiated agreement.

The Tribes are committed to working with the State and every other affected group during this period of hearings and public comment because the Tribes believe that the negotiated agreement is the best possible solution for our entire state.

AMENDMENT TO SB 446  
INTRODUCED (WHITE) COPY

1. Page 4.

Following: line 11

Insert: "(3) Prior to concluding any agreement under this section, the department shall hold public meetings, after proper public notice of the meetings and the availability of the agreement, to afford an opportunity to comment on its contents."

WITNESS STATEMENT

NAME: Scott JNELSON DATE: 2/17/89

ADDRESS: 643 Dearborn Helena, MT 59801

PHONE: 442-4793

REPRESENTING WHOM? Montana Wildlife Federation / National Wildlife Federation

APPEARING ON WHICH PROPOSAL: SB 446

DO YOU: SUPPORT? X AMEND? NO OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



ROLL CALL VOTE

SENATE COMMITTEE FISH AND GAME

Date Feb. 17, 1989 Senate Bill No. 446 Time 1:35 p.m.

NAME	YES	NO
Sen. Elmer Severson	X	
Sen. John Anderson Jr.	X	
Sen. Judy Jacobson	X	
Sen. Al Bishop		X
Sen Paul Rapp-Svrcek	X	
Sen. Loren Jenkins	X	
Sen. Bill Yellowtail	X	

Lucy Borer  
Secretary

Sen. Severson  
Chairman

Motion: Moved amendments introduced by Sen. Rapp-Svrcek

Amendments passed.