

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN JIM ELLIOTT**, on February 5, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Jim Elliott, Chairman (D)
John Johnson, Vice-Chairman (D)
Beverly Barnhart (D)
Fred "Fritz" Daily (D)
Roger DeBruycker (R)
Orval Ellison (R)
Gary Forrester (D)
Bob Gilbert (R)
Marian Hanson (R)
Vernon Keller (R)
Bea McCarthy (D)
Bruce Measure (D)
John Phillips (R)
John Scott (D)
Wilbur Spring (R)
Bill Strizich (D)

Members Excused: Ted Schye (D)

Staff Present: Doug Sternberg, Legislative Council
Ginger Puntenney, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HOUSE BILL 359

Presentation and Opening Statement by Sponsor:

REP. HAL HARPER, House District 44, Helena, said this is a very serious issue because off-highway vehicles can do considerable damage to streambeds. Snowmobiles are not covered in the definition of motor vehicle or off-highway vehicle. This bill applies only to streams, not lakes or reservoirs. He explained the amendments. **EXHIBIT 1**

Proponents' Testimony:

Robert VanDerVere supports this bill due to damage off-highway vehicles can cause.

Dal Smilie supports this bill as amended. EXHIBIT 2

Linda Ellison, Montana Trail Vehicle Riders Association, supports this bill as amended. Montana needs off-road management to curb unreasonable restrictions.

Bob Lane, FWP, supports HB 359. EXHIBIT 3

Steve Gilbert supports this bill.

Stan Bradshaw, Montana Trout Unlimited, supports this bill due to protection of fish habitat.

Janet Ellis, Montana Audubon Legislative Fund, supports this bill for its protection of sensitive areas within the state.

Tom Kilmer supports this bill. EXHIBIT 4

Scott Snelson, Montana Wildlife Federation, supports this bill.

Opponents' Testimony:

Larry Ellison, Motorcycle Trail Riders, said this bill only addresses a few isolated problems for which we already have rules and regulations. There are other things that can cause erosion.

Marty Paulson, Montana Observed Trails Association, opposes HB 359.

Vince Burns said this bill fails to meet the needs of the disabled sportsmen. EXHIBIT 5

Steve Slagle, Montana 4x4 Association, said this bill puts more restrictions on public lands. These problems are already covered by state law. Land cannot be classified as it is in the amendments.

Russell Ehnes, Great Falls Trail Bike Riders Association, said the amendments have improved this bill, but it still duplicates existing laws.

Ramona Ehnes is opposed to this bill and said any damage done by trail bike riding should be addressed by local land management.

Dennis Miller, Trail Bike Riders Association, said the amendment helps, but private landowners should have the ability to use their land without interference from this legislation.

Eric Lindquist, American Motorcyclist Association, submitted written testimony opposing HB 359. EXHIBIT 6

Questions From Committee Members:

REP. ORVAL ELLISON asked REP. HARPER if the terminology "between high-water marks" should be changed to read "below the high-water mark". REP. HARPER agreed. REP. ELLISON asked what private landowners' rights are on Class 1 streams. REP. HARPER said they have property rights down to the streambed. The streambed is owned by the state. REP. MARIAN HANSON asked if permission is needed to move livestock. REP. HARPER said no. REP. BEA MCCARTHY asked if the bill could be amended to allow use of motorized wheelchairs. Mr. Lane said yes. CHAIRMAN ELLIOTT asked if the disabled sportsmen issue could be addressed now. Mr. Cool said it could be put in a disclaimer.

Closing by Sponsor

REP. HARPER said an amendment would be added to address needs of disabled sportsmen. This bill is needed because present law is not adequate. You can still obtain permission for a special function at a site where it will not hurt the environment.

HEARING ON HOUSE BILL 443

Presentation and Opening Statement by Sponsor:

REP. DOROTHY BRADLEY, House District 79, Bozeman, said this bill would allow FWP to market its mailing lists and the department's earned revenue could amount to \$26,000 per year. It is a good way to promote Montana. In regard to the privacy issue, these names can already be obtained by anyone.

Proponents' Testimony:

K.L. Cool, FWP, supports HB 443. EXHIBIT 7

Mark Thompson, Montana Magazine, supports this bill. EXHIBIT 8

Rick Graetz, Montana Magazine, submitted written testimony in support of HB 443. EXHIBIT 9

Tim Engelhardt, Developing Enterprises, submitted written testimony in support of HB 443. EXHIBIT 10

Scott Snelson, Montana Wildlife Federation, said the federation utilizes these lists. FWP should be allowed to market these lists to increase revenue.

Opponents' Testimony: None

Questions From Committee Members:

REP. ELLISON asked why legislation had recently passed that limits the dissemination of this type of information, such as motor vehicle division lists. REP. BRADLEY said every list that is available has its pros and cons for release and the motor vehicle division list is a different situation. REP. ELLISON said this bill could cause an overabundance of junk mail. It is also a question of privacy. REP. BRADLEY said to just send the junk mail back. REP. SCOTT asked if the bill could be amended so a person could remove his name from the list. Mr. Lane said there might be computer difficulties and too much staff time involved. REP. ROGER DEBRUYCKER asked Mr. Cool what stops people if they can get this list already from selling a list. Mr. Cool said we will have the ability to make the list marketable.

Closing by Sponsor:

REP. BRADLEY said someone could get this information now and make a profit and FWP would get no profit. Junk mail is a small invasion of privacy compared to the large amount of money FWP could get by marketing these lists. It would also market Montana.

HEARING ON HOUSE BILL 304

Presentation and Opening Statement by Sponsor:

REP. ROBERT CLARK, House District 31, Ryegate, said this bill would allow FWP to dispose of certain obsolete equipment and property.

Proponents' Testimony:

K.L. Cool, FWP, supports this bill and submitted an amendment.
EXHIBIT 11

Robert Winfield, FWP, provided a demonstration of the outdated revolvers that this legislation would allow FWP to auction.

Tom Bivins, Montana Game Wardens Association, said most game wardens want to purchase their old weapons for sentimental reasons. He supports this bill.

REP. ELLISON supports this bill so game wardens can purchase their outdated weapons.

Opponents' Testimony: None

Questions From Committee Members:

REP. PHILLIPS asked REP. CLARK about the highway patrol's policy. REP. CLARK said they can purchase their own weapons when they

become obsolete. REP. PHILLIPS asked if dollars earned go to the general fund. REP. CLARK said yes. If it came out of FWP's equipment fund, it would go back into the equipment fund. REP. BRUCE MEASURE asked Mr. Cool if they were going to auction these revolvers. Mr. Cool said yes. The officer would have an opportunity to bid on his own weapon. This is a complicated bill due to other government entities being involved. The amendment narrows the scope of the bill to provide FWP the authority to exempt only these revolvers from current Department of Administration surplus property procedures. REP. SCOTT asked if the bill could continue to be amended to add other items, not just these revolvers. Mr. Cool said the amendment answers the question.

Closing by Sponsor:

REP. CLARK said these guns could become collector items so some officers won't be able to afford to purchase their own guns. The only way to improve this bill would be to give the officers the first right to purchase their own guns.

EXECUTIVE ACTION ON HOUSE BILL 304

Motion: REP. DEBRUYCKER MOVED HB 304 DO PASS.

Motion: REP. BOB GILBERT moved to amend HB 304.

Discussion:

Mr. Sternberg reviewed the amendments and said additional changes should be made. On page 1, line 22, strike "department property" and insert "surplus handguns"; and page 2, line 6, strike "property" and insert "handgun".

Vote: Motion to adopt amendments to HB 304 carried unanimously.

Motion: REP. MEASURE MADE A SUBSTITUTE MOTION THAT HB 304 DO PASS AS AMENDED.

Discussion:

REP. MEASURE said his amendment would sunset the bill after 2 years. Mr. Cool said he did not understand the need for an amendment to sunset this bill. REP. ELLISON asked Mr. Cool if the new guns are stamped. Mr. Cool said they are not, but the officers still would like to purchase their old guns. Mr. Sternberg said the statute would be printed in the 1991 code books and deleted in 1993. REP. GILBERT said it costs taxpayers \$2,500 each time it is entered into the code books. REP. PHILLIPS said his concern, if this bill is left on the books, is that it might give incentive to get better guns, sell old ones, and start a fund raising project for the department. REP. MEASURE said this deals with \$35,000 worth of weapons. Should a

separate earmarked account be created within the department? This should be a one-time shot. **REP. BEV BARNHART** said, according to testimony, that wardens want to buy their own guns back. This bill doesn't say that. If that is the intent, then it should be stated so they get first choice to purchase. **REP. FRED DAILY** said if the intent is to sell these guns back to the wardens, executive action should be delayed to work on amendments. The Committee agreed. **REP. DAILY** will work on amendments. **REP. MEASURE** said the legality must be reviewed.

No further action was taken on this bill.

EXECUTIVE ACTION ON HOUSE BILL 443

Discussion:

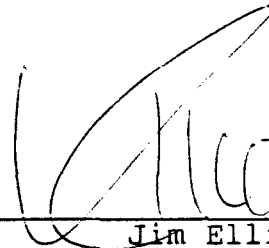
CHAIRMAN ELLIOTT said he hates junk mail and there is no price on privacy, so he does not support HB 443.

Motion: **REP. ELLISON** MOVED HB 443 DO NOT PASS.

MOTION/VOTE: **REP. MCCARTHY** MADE A SUBSTITUTE MOTION THAT HB 443 BE TABLED. Motion carried 9 to 8. EXHIBIT 12

ADJOURNMENT

Adjournment: 4:50 p.m.



Jim Elliott, Chair



Ginger Punttenney, Secretary

JE/gp

HOUSE OF REPRESENTATIVES
FISH AND GAME COMMITTEE

ROLL CALL

DATE 2-5-91

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN JOHNSON, VICE-CHAIRMAN	✓		
REP. BEVERLY BARNHART	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ROGER DEBRUYCKER	✓		
REP. ORVAL ELLISON	✓		
REP. GARY FORRESTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. VERNON KELLER	✓		
REP. BEA MCCARTHY	✓		
REP. BRUCE MEASURE	✓		
REP. JOHN PHILLIPS	✓		
REP. TED SCHYE			✓
REP. JOHN SCOTT	✓		
REP. WILBUR SPRING	✓		
REP. BILL STRIZICH	✓		
REP. JIM ELLIOTT, CHAIRMAN	✓		

AMENDMENTS TO HOUSE BILL 359

NEW SECTION. Section 1.

(1) Except as provided in subsection (2) and (3) a person may not operate a motor vehicle, as defined in 61-1-102, or an off highway vehicle as defined in 23-2-801, between the ordinary high-water marks as defined in 23-2-301 of any class I or class II waters, as defined in 23-2-301, on ~~public~~ state or federal lands or, for class I [or II] waters flowing through private lands, within that portion of the streambed that is covered with water.

(2) ~~Am~~ A motor vehicle or an off highway vehicle may be operated within the ordinary high water marks on ~~public~~ state or federal lands on ~~a~~ an established road or trail that enters or crosses a stream, but the stream crossing must be by the shortest practical or designated route to the road or trail on the opposite bank.

(3) The prohibition in (1) does not apply to (a) off-highway or motorized vehicle use that occurs on state or federal land that is designated for off-highway or motorized vehicle use between the ordinary high-water marks if the use is in accordance with the requirements of the authorization; and (b) to off-highway or motorized vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use between the ordinary high-water marks.

(4) The state may only authorize the use of motor vehicles or off-highway vehicles on state property between the ordinary high-water marks where the state has determined that the use will have a minimal impact on the streambed and the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to use the same criteria for authorizing use.

EXHIBIT 2
DATE 2-5-91
HB 359

TO: House Fish and Game Committee
FROM: Dal Smilie
RE: HB 359
DATE: February 5, 1991

I am a recreational trail bike rider. In 1989 it was estimated that there were 22,500 trail bikes and ATVs in Montana. In that same year there were 88 motorcycle dealerships in Montana with 552 employees with a payroll of over \$9,173,000. HB 359, as introduced, would end trail riding and would severely impact Montana's motorcycle dealers.

The plain meaning of HB 359, as introduced, is that no non highway licensed recreational motorized vehicle may cross any stream on public land except by road. Non licensed vehicles are otherwise prohibited by law from using County or Forest Service roads. Therefore there would be no legal method of crossing a stream.

Public and private land managers presently have the authority to limit certain uses including banning stream crossing. Why bar all use when there exists a current ability to fix any problem areas?

Motorized recreationists have spent hundreds of hours building and repairing trails. HB 309 would adequately fund other necessary trail maintenance, redesign and rerouting. Many of these designated trails cross streams or utilize stream beds for a portion of there length. The same goes for trails and historical roads and ways that are in areas open to motorized trail vehicles.

The motorized trail users informed Speaker Harper of the problems with HB 359 as drafted. The purpose of the bill was to protect stream beds of both Class I and II waters but not to eliminate the sport of trail riding or to inhibit hunters or fishermen. Consequently Speaker Harper suggested the amendments he has presented to the Committee.

The amendments allow stream crossing on all established roads and trails. That change protects the sport of motorized trail riding.

It is my understanding that "established" roads and trails means those that have been historically in place or those that are rerouted or newly established by land managers. The term does not mean "designated". Land managers have designated relatively few trails officially, the passage of HB 309 may cure that.

The motorized trail user can support this bill as amended.

HB 359
February 5, 1991

Testimony presented by Bob Lane, Dept. of Fish, Wildlife & Parks

HB 359, as introduced, would prohibit off-highway vehicle use between the ordinary high-water marks of all streams and rivers where the river is navigable or where the stream or river flows over state or federal lands. The stream access law presently forbids the use of all-terrain vehicles or other motorized vehicles within the ordinary-high water marks where the land is posted against trespass unless the landowner has given permission.

Under anticipated amendments by the sponsor, all motor vehicles would be prohibited unless the state or federal landowner authorized the use or except where an established road or trail enters or crosses a stream. The state could authorize the use only where the environmental impact was minimal.

Based on the department's analysis of this legislation, we wish to provide the committee with the following information:

1. Off-highway vehicles can do considerable damage to streambed ecology by disturbing the streambanks and the gravel covering the streambed. Nature lays down streambeds in a pattern that is naturally resistant to erosion. Off-highway vehicles can break through and destroy this pattern, leaving the disturbed streambed exposed to accelerated and inevitable erosion that reduces stream channel stability. In severe cases, this erosion can harm the fish and wildlife ecology of a stream or river.

2. Shallow riffle and gravel bar are sensitive areas of streams, important for fish spawning and food producing areas.

3. Wildlife under natural conditions concentrate along stream and river corridors. Concentrated use threatens wildlife in these areas through harassment and physical deterioration of part of their habitat.

4. Uses that disturb streambeds are closely regulated under present statutes. Activities of the private sector, such as installing headgates, constructing bridges, or rip-rapping banks, are regulated by Conservation Districts under the Streambed and Land Preservation Act with projects approved, modified or denied, to protect the streambed. These are necessary activities that by their nature must be done within the streambed. State and local governments are similarly regulated under current law.

5. Use of off-highway vehicles to include rallies, pleasure riding, or establishing trails in streambeds can also be done on a much less sensitive environment.

We therefore support this legislation with the sponsor's amendments.

Chairman and members of the committee:

Montanans are justifiably proud of the many beautiful lakes, rivers and streams which are to be found within the borders of this great state. Many of these waterways are famous and much thought of far beyond our state's borders. Their pristine waters are famous for world-class fisheries, sparkling beauty and diverse and abundant riparian wildlife. To thousands of Montana residents there is nothing finer on earth than a day spent fishing, floating, wading or swimming in these waters.

Unfortunately a new form of recreation that is now popular with a small percentage of Montanans and out-of-state visitors is having an adverse impact on our waterways.

We are concerned here with off-road all terrain vehicles, namely three- and four-wheeled motorcycles. These vehicles can, and are being driven in Montana's waterways. They have been observed cruising up and down numerous creeks and streams. They are frequently operated on the sand and gravel bars of Montana's major rivers. This environmentally insensitive operation of all-terrain vehicles causes siltation and muddying of streams, destroys aquatic vegetation, disturbs and destroys fish eggs, tramples riparian vegetation and disturbs aquatic and riparian wildlife. Petroleum products leak into the water from these vehicles when they are driven in waterways.

These adverse impacts, while currently limited in scope, have the potential to multiply and become a major problem unless House Bill 359 is enacted as law.

I strongly urge the committee to give favorable action to this piece of protective legislation to insure that Montana's

Ex. 4 pg 2 of 5
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HB 359

waterways will not be further abused by all-terrain vehicles.

Let's protect our waterways for their scenic beauty, outstanding fisheries production, pure clean water, wildlife habitat and for their traditional recreational activities of fishing, boating, swimming, and sightseeing.

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2-5-91
359

Pg 3065



Smith River Montana



Invaders on the Black River

In U.S. wilderness areas, roaring ATVs are shattering the peace

Villages on Missouri's Black River like Lesterville and Centerville used to be oases of tranquillity, the destination of weekend canoeists, tube floaters and fishermen. No longer. All too often the solitude of the Ozarks wilderness is shattered these days by the whine and rumble of powerful engines. The river's banks are littered with mountains of discarded beer cans, used Pampers and empty motor-oil cans. A steady stream of pickup trucks

river, the new law requires riders to have a landowner's permission to ride the river. The catch is that much of the Black River is still unposted, and the law has failed to halt the nightmare. "These things destroy the ecology of the river," says Larry Koeler, a Centerville lawyer, of the ATVs. "Some drivers drain their crankcases in the water. And if you're running a machine with oil and gas through the water, some of that gets in the river."

iff Gary Barton, he and his two deputies can hardly make a dent in the rampant ATV challenge. On Memorial Day weekend they wrote scores of tickets to ATV riders who trespassed on private property or were intoxicated. "Sometimes," says Barton, "it gets pretty hairy. You'll get there, and there will be 20 to 30 people all potted up. My nearest help is 45 minutes away."

The sheriff, who owns three ATVs himself, takes no chances. "I don't equip my patrol car with a regular rifle," he says. "I have an M-16. I leave it in the patrol car where you can see it. You have to make a show of force." Although the state conservation commission sent five agents



Clash of cultures in Missouri: canoeists and nature lovers near Lesterville compete for space with weekend warriors on pollution-spewing ATVs

rolls through village streets hauling trailers loaded with all-terrain vehicles, heading for the river's edge. Locals call it "the Invasion."

On Memorial Day weekend the invaders descended with a vengeance. Each day some 250 ATVs gathered on a stretch of the Black River near Centerville, a wide-open area of gravel bars and shallow water. The weekend warriors jostled at one another with their three- and four-wheel vehicles, running up and down the riverbed with abandon. As some ATV riders sat chugging beer on the bank, cohorts roared past at breakneck speeds, narrowly missing other vehicles. Music blasted from portable radios and car stereos, commingling with the whoops of riders and the growl of unmuffled engines. The air stank of gasoline. Usually clear, the Black River in places ran the crayon green of a sewage ditch as algae were stirred up by the commotion.

For the ATV crowd, it was all just good fun. But for conservationists and others interested in keeping the river pristine, the Invasion is a nightmare. Many had thought a bill passed by the Missouri legislature in April would ban ATVs in the

Canoe Guide John Marlin of the nearby Twin Rivers Landing receives up to 16 complaints a day about ATVs. "The problems are from outsiders," he says. "When all those people get together with ATVs, and you combine that with alcohol, you have a real problem." Horror stories abound. Former River Guide Eric Dunn recalls an encounter in which an ATV jostled a canoe and knocked a little boy into the river. The child's father and the ATV driver "went at it for a while," recalls Dunn dryly. "Over three years ago, a young boy tried to run down me and my wife and son," Marlin relates. "The boy splashed us on the first pass. The next time he was going to bump the canoe. I held the paddle like a baseball bat and took a swing. He didn't take the second pass. I've seen these ATVs herd canoes like a dog herds sheep."

Such tales finally forced the Missouri legislature to take this spring's action. But the onslaught of ATVs continues to worry local officials in Reynolds County, where the population of 7,500 increases as much as fivefold on holiday weekends. Even with the new law, says County Sher-

into Reynolds County to help Barton out, it was not enough of a show to make much difference. "The ATVs still go anywhere they want," says Carolyn Hewitt, owner of the Twin Rivers Landing in Lesterville. "Until they bring in the state troopers or the National Guard, it won't do any good."

Rivers are not the only ecosystems involved in the no-holds-barred battle between ATV users and environmentalists. In California some 500,000 acres of public land are open to use by the increasingly popular off-road vehicles. The Ocotillo Wells State Vehicular Recreation Area east of San Diego, for example, draws tens of thousands of visitors. Environmentalists are enraged. Says Bob Hattoy, Southern California director of the Sierra Club: "They have ample room to play, but they feel they have the cowboy's right to ride the range wherever they want, whenever they want and how far they want."

California environmentalists are marshaling their forces against the ATVs. In May the state parks and recreation commission renewed a ban on off-road vehicles in California state parks, except for those areas specifically designated for

their use. And California conservationists are continuing to push for an even bigger crackdown. Desert legislation proposed by Senator Alan Cranston would create 3 million acres of new national parks, where access would be limited to existing roads, and 4.5 million acres of protected wilderness that would be closed to all motorized vehicles.

In addition, about 28 other states, including Maine and Wisconsin, have laws regulating the vehicles. Several bills now pending in Congress would restrict the sale of ATVs or provide refunds to customers who have purchased the three-wheel versions. Hundreds of product-liability cases and class actions have been brought against manufacturers. James Lacy, general counsel of the Consumer Product Safety Commission, says there have been 998 ATV-related deaths since the beginning of 1982.

The stakes in the battle are high. Sierra Club Director Hattoy charges that the ATVs permanently scar the land, kill wildlife and destroy vegetation, as well as cause noise, safety and pollution problems. Says he: "We recognize their right to use public lands, but no one has the right to chase jackrabbits until their hearts explode, or roar over desert turtles." ATV Enthusiast Buddy Bray sees it differently. "I don't believe riding ATVs destroys the desert," he says. "All you kill is the bushes."

For their part, ATV owners warn that they will fiercely oppose Johnny-come-lately attempts to tamper with their sport. "I spent a lot of money on this thing," says Mike Leutzinger of Ironton, Mo., as he stands astride his ATV on the Black River. "Where else can you ride 'em? You can't ride 'em on the highway. You can't ride 'em in the woods. They're closing off the trails. This," says Leutzinger, pointing at the churned-up Black River, "is it."

—By B. Russell Leavitt/Centerville.
Reported by Ted Cup/Washington and Nancy Seufert/Los Angeles

EXHIBIT
DATE 2-5-91
HB 359

Vince Burns
P.O. 1157
Townsend, Mt 59644
(406)-266-3060

Montana House of Representatives
Fish and Game Committee

RE: HB 359

Dear Committee Members:

House bill 359, as it is currently written, fails to address the needs of disabled sportsmen to use "motorized wheelchairs" to access the rivers on public lands in Montana. Please consider amending the bill to allow for use of motorized wheelchairs within the high water marks of major rivers.

The Department of Fish, Wildlife, and Parks has been attempting to produce a plan to address the special needs of disabled sportspersons, in order to comply the recently passed Americans with Disabilities Act. Currently, many disabled fishermen are able to use dry portions of the streambed to continue to pursue their sport from a motorized wheelchair.



This letter was sent to the
entire House Fish and Game
Committee.

2/5

P.O. Box 6114, Westerville, Ohio 43081-6114

Telephone (614) 891-2425

Fax: (614) 891-5012

January 30, 1991

EXHIBIT 6

DATE 2-5-91

HB 359

The Honorable Jim Elliott, Chairman
House Fish and Game Committee
State Capitol Bldg.
Helena, Montana 59620

Dear Representative Elliott:

With 188,000 members, the American Motorcyclist Association is interested in any activities which may affect enjoyment of the sport. We write in opposition to House Bill 359, which would "prohibit the operation of off-highway vehicles (OHV) between the ordinary high-water marks on public lands."

This bill is unnecessary to provide the desired protection. The managers of state and federal public lands in Montana already have and use the power to limit such access, especially where OHV use would be problematic or is not contemplated.

We are especially concerned that historic roads and trails will be entirely cut off. These routes of travel, no matter how adequately managed for the use, do not meet the legislation's definition of "road."

The decision of whether and how public lands should be managed for any recreational use belongs to the local land manager working with those the land serves. We firmly believe it should remain there.

Therefore, we respectfully request you vote "NO" to HB-359 when it comes before you. It is both overly burdensome as well as unnecessary.

Sincerely,

Eric Lundquist
Legislative Affairs Specialist
Government Relations

EL/tp

HB 443
February 5, 1991

Testimony presented by K.L. Cool, Dept. of Fish, Wildlife & Parks

This bill would permit the Department of Fish, Wildlife, & Parks to rent or sell lists of license purchasers, special license applicants, and its MONTANA OUTDOORS subscribers, by a amending present law.

* Department listings described above are considered information in the public domain and thus are already a matter of public record open to public inspection.

* Although current state law prohibits copying or reproducing these lists by mechanical means, they may be copied by hand on the department's premises.

* Each year people visit the department to hand copy lists of license holders. This is inconvenient and time-consuming for the parties copying the lists and requires a place for them to work. Once the lists are copied, they can be and are sold to other interested parties.

* The current prohibition was instituted to respect individual privacy. Because these lists are available, the current statute is not completely protecting the privacy of those on the lists.

* Through the sale of its magazine and license buyer lists, the department could eliminate the inconvenience to people wishing to obtain them and generate an estimated \$26,000 per year. Some other state fish and wildlife agencies also sell their lists.

We support HB 443.

MONTANA

M A G A Z I N E

EXHIBIT 8 pgs
DATE 2-5-91
HB 443

February 5, 1991

TO: Members of the House Committee
on Fish Wildlife and Parks:

Following is Testimony entered in support of passage of HB #443

My name is Mark Thompson, Director of Publications at Montana Magazine, American Geographic Publishing, Helena.

Rick Graetz, the publisher of our company, intended to be here but previously scheduled business in Seattle prevented him from attending. He asked me to express his regret at not being here.

Thank you for the opportunity to address^{the} the committee.

I am here to urge my support of HB 443, which would amend existing code to allow the Department to take economic advantage of its mailing lists.

In this bill you have an opportunity to reap benefits for the Department of Fish Wildlife and Parks, to fully protect your clientele and to help the private sector at the same time.

There are four very good reasons why this would be good legislation.

1) The economic advantage to the Department

The Department of Fish Wildlife and Parks has one of the most desirable and best focused market groups among all of the state agencies. Various lists from the department would be valuable to just about any hunting and fishing operator, guest ranch, a company publishing catalogs of Montana products, magazines, and travel agencies.

Literally anyone in the business of "selling" Montana -- should consider these lists in their publicity and advertising programs.

In short there is demand, and the department should realize real income from list rental with almost no overhead or expense.

2) The economic advantage to private enterprise

All businesses such as those I just mentioned must find ways to market themselves to customers all over the country. It is a daunting, frustrating and often inefficient task to find your customer working from Augusta or Ovando or Red Lodge or Ennis.

The department is in a position to encourage the efficient marketing of small travel related businesses by making available just the lists they need. The access to a list for rent of the most sought-after recreation-oriented names of persons who have already expressed interest in Montana, would eliminate much shot-in-the-dark direct marketing strategies such as phone book searches, unedited organization membership lists, old trade show lists, etc....

3) Promotion of Montana

Every time one of these Montana companies tries to sell itself to names on the department's lists they are advertising Montana. Every time we complete a mailing to encourage subscribers to Montana Magazine or the Montana Geographic Series we also are encouraging people to travel to and around Montana. This is advertising by private enterprise at no cost to the state that translates into revenue for Departments that benefit from tourism activity.

4) Professionalization of the list management

The names on some of the lists the department maintains can be obtained now by going to the department's offices and transcribing names from public documents.

You might well ask why I would stand here to tell you that I want to rent your lists when I can get them for free.

The answer very simply is that any list needs to be managed to be useful to list consumers. With the income generated the department or its list broker could insure "good addresses", eliminate duplication etc...

It is a waste of the department's manpower to administer the lists this way and it is a waste of list users time as well.

A Final Note

In addition to these reasons let me add just one thought. Legislation already exists that allows some state agencies to make lists available. One can drive to Deer Lodge today and obtain motor vehicle registrations. As I said before, the Department of Fish Wildlife and Parks itself already makes certain records that form lists available to the public.

So the issue is no longer about policy. The issues are accessibility, promoting Montana, helping private enterprise and raising revenue through a rental fee paid by the user.

In short you can have good legislation and good policy at the same time.

I believe it is time for state agencies to help themselves to a ready market through the resource of its names. Protections already exist to prevent abuse of lists. People can ask to have their names removed, although experience has shown that only a small minority of persons ever ask to delete their names from lists. Another protection is for the agency to work through a professional list broker that could screen undesirable consumers of the list.

Clearly this is a win-win situation for the department and private enterprise.

I urge you to give this legislation your favorable recommendation.

Thank you.

Cordially,



Mark O. Thompson
Director of Publications

MONTANA

M A G A Z I N E

February 4, 1991

Rep. Dorothy Bradley
State of Montana
Capitol Station
Helena, Montana 59620

Dear Dorothy,

As we worked together on House Bill #443, allowing the Department of Fish, Wildlife & Parks to market some of their lists, I am in full support of the legislation's passage.

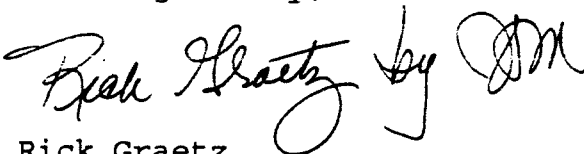
This type of action has been needed for some time. Organizations like MONTANA MAGAZINE help promote Montana to people beyond our borders at no cost to the state. It is difficult for us and other organizations to obtain lists of names of people with an interest in this state. Some of the lists available to Fish, Wildlife & Parks are exactly what we need.

The people on these lists have shown an interest in Montana. By us sending them material on MONTANA MAGAZINE and the various Montana books we produce, we will be giving them even more incentive to return to Montana. *

At this time we are able to get the names but only through a very lengthy process of physically copying the material. And people have been doing this to sell them to others. With your measure, the department would be able to handle this in an orderly fashion and take in revenues for some of your programs.

It is a good bill for the Montana economy and I urge the committee to give it a DO PASS recommendation.

Have a good day,



Rick Graetz
Publisher

RG/jlm

cc: Mark Thompson - Director of Publications

DATE 2-5-91HB 443**DEVELOPING ENTERPRISES, INC.**

305 W. Mercury
Butte, MT 59701
(406) 723-4061

February 4, 1991

Representative Dorothy Bradley
Montana State Capital
Helena, MT 59620

Dear Ms. Bradley;

I enjoyed meeting you last Friday. I enthusiastically endorse House Bill 443 allowing the Department of Fish, Wildlife, and Parks to sell mailing lists. I strongly encourage all members of the House and Senate to support it. I would like to testify at the Tuesday hearing, but my schedule precludes my attendance. I teach marketing at Montana Tech, own a marketing business, and am very familiar with direct marketing and mail order businesses.

The direct marketing industry (those businesses who purchase and rent mailing lists) is growing at a rapid rate. Mailing lists that contain names of people who are identified by their particular interests are increasing in value. There are many companies who would like access to Montana fishing and hunting license holders including magazines, catalogs, and travel companies.

The impact of marketing the DFWP list would positively affect the department's revenue, be very inexpensive to administer, and would not cause harm or inconvenience to the members of the list. Unlike telemarketing where phone calls can disturb the person called, a mailing list causes no disturbance. If the recipient does not want the mailed material, they simply throw it away. No cost is incurred by the recipient. In addition, only companies that deal in hunting and fishing related products and services would purchase the mailing list. Thus only material that is of potential interest would be received.

I have looked at the preliminary revenue and cost figures prepared by DFWP. I believe that if the department contracts with a reputable list broker, the revenue figures could be increased at least three fold and probably five fold with no increase in expenditures. These mailing lists would actually be rented and not sold. Each time the list is rented and information is mailed, DFWP can collect a fee. If the list is actually sold, there would only be a one time fee and the purchaser could make as many mailings as they wish (if it were sold, the \$60 per thousand should be increased significantly!).

I again strongly support and urge passage of HB 443. Montana should not overlook this significant source of revenue.

Sincerely,


Tim Engelhardt

Copies: K.L. Cool
Jim Elliott
Bob Williams

HB 304
February 5, 1991

Testimony presented by K. L. Cool, Dept. of Fish, Wildlife & Parks

This legislation would provide our department the necessary authority to auction our 17-year old revolvers which were replaced last year.

The legislation is requested for the following reasons:

1. Under current Department of Administration authority, surplus property must first be offered to other state and local governmental entities. Many of these weapons are worn and unreliable. They should not be reissued as personal safety items for any law enforcement officer.
2. If the revolvers are not transferred to other governmental entities, current procedures require a \$200 per unit charge for disposal of property by the Department of Administration. We would like to avoid the charge in this one instance to maximize return to our law enforcement equipment fund.
3. Each of our old revolvers is stamped with the department symbol, the grizzly bear head, and the department name, which makes each old weapon a collector's item.
4. Our fiscal note indicates that we can expect to receive \$35,575 for the 127 revolvers if auctioned by serial number as collectors' items. This estimate was provided by a professional appraiser.
5. Since the 100 new 9mm automatics cost us \$37,600 utilizing the Highway Patrol bid from Smith & Wesson, we can expect the sale of the old weapons to nearly offset the cost of the new weapons.
6. This legislation was requested by our officers for some of the following reasons:
 - a. Officers who carry a sidearm for many years develop a strong sentimental attachment to this personal safety item.
 - b. The legislation would allow all of them an opportunity to bid on their individual weapons.
 - c. This method would maximize return of dollars to the law enforcement equipment fund from which purchase of new weapons was prioritized.

2-5-91

HB 304/

- c. This method would maximize return of dollars to the law enforcement equipment fund from which purchase of new weapons was prioritized.
 - d. This legislation and opportunity is consistent with authority that allowed Highway Patrol officers to purchase their old revolvers when they were replaced.
7. The Department of Administration and the Governor's office have been contacted and support this legislation as a reasonable exception to the surplus property disposal system if the amendment which I will offer is adopted. The amendment simply narrows the scope of the bill to provide us the authority to only exempt these revolvers from current Department of Administration surplus property procedures.

AMENDMENT TO HB 304
INTRODUCED (WHITE) COPY

1. Title, lines 7 and 8

Following: "DISPOSE OF"

Strike: "CERTAIN OBSOLETE EQUIPMENT AND DEPARTMENT
PROPERTY;"

Insert: "SURPLUS HANDGUNS;"

2. Page 1, line 15

Strike: "obsolete and personal department property."

Insert: "surplus handguns."

3. Page 1 lines 17 and 18

Following: "what"

Strike: "department property is available for
disposal;"

Insert: "handguns are surplus;"

4. Page 2, lines 1 through 3

Strike: "certain equipment and property"

Insert: "surplus handguns"

Following: "dispose of"

Strike: "obsolete equipment or other personal property"

Insert: "surplus handguns"

5. Page 3, line 6

Following: "include"

Strike: "equipment and property"

Insert: "surplus handguns"

EXHIBIT 12
DATE 2-5-91
HB 443

HOUSE OF REPRESENTATIVES

FISH AND GAME COMMITTEE

ROLL CALL VOTE

DATE 2-5-91 BILL NO. 443 NUMBER _____

MOTION: Substitute motion that HB 443

Be Tabled. passed

NAME	AYE	NO
REP. JOHN JOHNSON, CHAIRMAN		✓
REP. BEVERLY BARNHART		✓
REP. FRED "FRITZ" DAILY	✓	
REP. ROGER DEBRUYCKER		✓
REP. ORVAL ELLISON	✓	
REP. GARY FORRESTER	✓	
REP. BOB GILBERT		✓
REP. MARIAN HANSON		✓
REP. VERNON KELLER		✓
REP. BEA MCCARTHY	✓	
REP. BRUCE MEASURE	✓	
REP. JOHN PHILLIPS	✓	
REP. TED SCHYE	✓	
REP. JOHN SCOTT		✓
REP. WILBUR SPRING	✓	
REP. BILL STRIZICH		✓
REP. JIM ELLIOTT, CHAIRMAN	✓	
TOTAL	9	8

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Fish and Game

COMMITTEE

BILL NO. 359

DATE 2/5/91

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DAL Smilie Helena	American Motorcyclist Assn	✓ with Amendments	
ED FEIST HELENA	CAPITAL TRAIL BIKE RIDER	✓ WITH AMENDS.	
Bruce Turner Great Falls	MTVRA		✓
MARTY PAULSON Lewis town	Montana Observed Trials Assoc.		✓
Ramona Ehnes Great Falls MT	SELF		✓
RUSSELL EHNEs	GREAT FALLS TRAIL BIKE Riders Association		✓
Linda Ellison	MT Trail Vehicle Riders Assn	With Amends	
Larry Gellison 3301 W Babcock Bozeman, MT	Self and Motorcycle Trail Riders		✓
Steve Slegle Clancy 59634	Montana 4x4 Assoc		✓
Dennis Miller Mt. City 59634	Self, MTVRA + RMTBR		✓
Bill Hall 109 E Lyndale Helena	Self + RMTBR		✓
TOM Kilmer 531 2nd Street Helena	SELF	✓	
CHANE SALOIS PO Box 591, POLSON, MT	SELF		✓
Judy Fenton Clancy, MT	Self	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

F+G COMMITTEE BILL NO. 359
DATE 2-5-11 SPONSOR(S) Harper

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Star Gilbert ^{721 2nd} Helena	Self	X	
Stan Bradshaw	T.U.	✓	
Janet Ellis	MT Audubon	X	
Janet Swelson	MT Wildlife Fed.	X	
Robert Anderson	Self	X	
Wm Buns	Self And ^{***} Disabled Sportsman		X
Bob Lene	Fw 9 P	X	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Fish and Game

COMMITTEE

BILL NO. HB 443

DATE 2-5-91

SPONSOR(S) Bradley

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MARIC O. THOMPSON	MONTANA MAGAZINE	X	
K.L. COOL	MT. F.W. & D	X	
SCOTT SNEZSON	MT WILDLIFE FED.	X	
Adit. Van Cerkow	Self		X
Bib Lane	F.W. & D	X	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Fish and Game COMMITTEE BILL NO. HB 304
DATE 2-5-91 SPONSOR(S) Clark

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[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.