

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN JIM ELLIOTT, on February 21, 1991, at 2:00 p.m.

#### ROLL CALL

**Members Present:**

Jim Elliott, Chairman (D)  
John Johnson, Vice-Chairman (D)  
Fred "Fritz" Daily (D)  
Roger DeBruycker (R)  
Bob Gilbert (R)  
Marian Hanson (R)  
Bea McCarthy (D)  
John Phillips (R)  
Wilbur Spring (R)

**Members Absent:**

Beverly Barnhart (D)  
Orval Ellison (R)  
Gary Forrester (D)  
Vernon Keller (R)  
Bruce Measure (D)  
Ted Schye (D)  
John Scott (D)  
Bill Strizich (D)

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

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

#### EXECUTIVE ACTION ON HOUSE BILL 833

**Motion:** REP. DEBRUYCKER MOVED HB 833 DO PASS

**Discussion:**

Doug Sternberg explained amendments.

CHAIRMAN ELLIOTT said the increase of 50 cents in water vessel fees would be used for boat safety education programs and enforcement. REP. MCCARTHY asked if the increase is enough to cover monitoring costs. CHAIRMAN ELLIOTT asked if the department has decimal meters. Pat Graham said FWP's equipment would need

to be updated. REP. MCCARTHY asked what the cost would be. Mr. Graham said a fiscal note is needed. REP. MCCARTHY said that sewage pumpout costs should be figured in the fiscal note. REP. GILBERT said cost is a big factor concerning this bill. REP. MCCARTHY asked if FWP would buy and install these pumps. Mr. Graham said it is not clear yet who would install and pay for the pumpout stations. FWP should not be totally responsible, especially on private marinas. REP. DAILY said if this is a revenue bill, there would be further time to work on revisions. REP. DEBRUYCKER said the sewage problems need to be solved so he would hate to see the bill killed. CHAIRMAN ELLIOTT said his main concern is the noise factor. REP. PHILLIPS said he was not sure how much of a problem there really is. Maybe EQC should be involved. CHAIRMAN ELLIOTT said banning of phosphate detergents on Flathead Lake has decreased the algae problem. This is not so much a health issue as it is hurting the fishing. The bill does not address issues properly. Mr. Sternberg said that fee appropriations are only for 2 years. The termination date is July 1, 1993. Unless amended, the fees would revert back to \$2. REP. JOHNSON asked if this bill would affect small or large bodies of water. REP. DAILY said the bill needs to be redrafted.

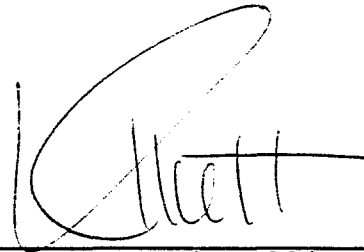
Motion: REP. DAILY MADE A SUBSTITUTE MOTION THAT HB 833 BE TABLED. Motion carried 6 to 3 with Reps. Elliott, Debruycker, and Hansen voting no.

Discussion:

It was agreed by committee members that there are issues in this bill that need to be addressed but the bill was not presented in an acceptable form. The bill needs to be redrafted.

ADJOURNMENT

Adjournment: 2:30 p.m.



Jim Elliott, Chair



Ginger Puntenney, Secretary

JE/gp

# HOUSE OF REPRESENTATIVES

## FISH AND GAME COMMITTEE

ROLL CALL

DATE 1-21-91

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	✓		

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## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FISH & GAME**

**Call to Order:** By **CHAIRMAN JIM ELLIOTT**, on March 5, 1991, at 3:15 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)  
Ted Schye (D)  
John Scott (D)  
Wilbur Spring (R)  
Bill Strizich (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 SENATE JOINT RESOLUTION 13**

##### **Presentation and Opening Statement by Sponsor:**

**SEN. GREG JERGESON**, Senate District 8, Chinook, said citizens of these communities petitioned congress to amend the Nez Perce National Historical Parks legislation to include the Bear Paw Battlefield, Big Hole Battlefield, Fort Fizzle, and Canyon Creek sites in Montana.

##### **Proponents' Testimony:**

**Mr. K.L. Cool**, FWP, supports SJR 13. **EXHIBIT 1**

**Opponents' Testimony:** None

Questions From Committee Members:

REP. BEA MCCARTHY asked the location of Fort Fizzle. SEN. JERGESON said southwest of Missoula.

Closing by Sponsor:

REP. JERGESON urged support of SJR 13.

HEARING ON SENATE BILL 171

Presentation and Opening Statement by Sponsor:

SEN. PAUL SVRCEK, Senate District 26, Thompson Falls, said this bill would increase certain fishing and hunting license fees and the license agent's commission. It will raise revenue in order for the Department of Fish, Wildlife, and Parks to meet an anticipated revenue shortfall. The department's responsibilities have increased, so employees of FWP have contributed many hours of comp time. He distributed an editorial to explain this bill further. EXHIBIT 2

Proponents' Testimony:

K.L. Cool, FWP, presented an overview of the issues involved in the license fee increase and the revenue involved to balance FWP's budget. Public input favored an increase in resident and nonresident license fees. Documents regarding FWP's added responsibilities, cost-to-hunt comparisons, and phased-in license fee increases were given to committee members. EXHIBIT 3

Jack Puckett, Big Sky Upland Bird Association, supports this bill. EXHIBIT 4

Jeff Brandt supports this bill. EXHIBIT 5

Bob Lovegrove, Western Montana Fish and Game Association, said the fee increase is needed for adequate hunting enforcement and to keep the present level of management.

Thaddeus Harrington supports this bill. EXHIBIT 6

Ira Holt, Ravalli County Fish and Wildlife Association, supports this bill. EXHIBIT 7

Robert Lucas supports this bill. EXHIBIT 8

Ed Beal Sports Inc., said fee increases will benefit resident and nonresident hunters. An amendment is needed that license agents will receive 50 cents effective now, instead of after the 1992 license year.

Mike Lowry, Silvertip Archery, supports phased-in increases and the suggested amendment that license agents receive an increase immediately. Another amendment should be made to add \$2 to the sportsman tag to fight antihunting protesters.

Martin Onishuk supports this bill. EXHIBIT 9

Stan Bradshaw, Montana Trout Unlimited, supports this bill.

Kelly Flynn supports this bill. EXHIBIT 10

Larry Fasbender supports this bill.

Janet Ellis, Montana Audubon Legislative Fund, supports this bill because the membership cares about hunting, fishing, and wildlife.

Valerie Horton, Montana Wildlife Federation, supports this bill due to FWP's revenue shortfalls.

Bill Holdorf, Skyline Sportsmen, supports moderate fee increases.

Tony Schoonen, Skyline Sportsmen, supports phased-in fee increases.

Scott Snelson, Southeastern Montana Sportsmen Association, supports this bill but opposes any increase in nonresident licenses.

Bob Bugni, Prickly Pear Sportsmen, supports this bill due to expansion of block management and enforcement.

Jan Hamer supports this bill.

Larry Thomas, Anaconda Sportsmen, supports moderate fee increases.

John Delano supports this bill and said fees are not out of line compared to other states.

Charlie Hughes, Montana Rifle & Pistol Association, submitted written testimony. EXHIBIT 11

Opponents' Testimony:

Rep. Menahan said he does not support this bill due to FWP's present management style and that the increased revenue will be used for bison control.

Rep. Thoft said the majority of Montana sportsmen are opposed to fee increases. This is a tax increase.

Robert VanDerVere is opposed to this bill due to appropriations requested and hiring of more employees. EXHIBIT 12

Informational Testimony:

Mike Simpson, Montana Outfitters and Guide Association, said HB 583, HB 185, and HB 171 should be considered jointly.

Questions From Committee Members:

REP. MCCARTHY asked what is included in a sportsman license. Mr. Cool said they would make a list to give to the committee. REP. MCCARTHY asked what license fee increases are based on. Mr. Cool said license fees are normally based on a cost/demand formula, but that is not done in the case of resident fees. It is based on a reasonable fee increase that the department thought Montana residents would support. In most cases the fees are lower than in surrounding states. REP. PHILLIPS asked what the percentage of earmarked money is in HB 526. Mr. Cool said 2.9 % annually. That would leave approximately \$1.1 million additional money for the upland bird program, waterfowl program, bighorn sheep, etc. REP. PHILLIPS asked why upland game birds are not on this list. Mr. Cool said to increase upland bird fees would reduce the number of participants. REP. PHILLIPS asked if the committee could get a printout on the earned revenue from each licensed area. Mr. Cool said yes. REP. BARNHART asked how many hunters there are in Montana and how many people attended these public hearings. Mr. Cool said there are approximately 400,000 licenses issued in Montana, but it is hard to get people involved in these public hearings. Due to extensive publicity by the department regarding these public hearings, they feel the response was good and the comments ran 4 to 1 in favor of license increases. REP. ELLIOTT asked for an explanation of the legislative fiscal analyst's report. Mr. Mott said the LFA removed from the department's budget a number of ongoing programs and cut 12 to 15 employees, so this made the department's financial picture look better. After meeting with the appropriations subcommittee, these programs will not be cut. REP. PHILLIPS said on the fiscal note the 1992 figures show a 6% increase instead of a 10% increase as stated earlier. Mr. Mott said it is how the license year lines up with the fiscal year or effective date of the bill. The license fees will not go into effect until March 1, 1992, so there would only be 3 or 4 months of increased revenue. The second year of the increase would be more accurate. After March 1994 the average increase would be 25%, to include resident and nonresident licenses.

Hearing on HB 171 will be continued March 7, 1991.

HEARING ON SENATE BILL 97Presentation and Opening Statement by Sponsor:

SEN. TOM BECK, House District 24, Deer Lodge, said this legislation provides specific requirements for the proper posting of private land through which the public has a legal right-of-

way. It will affect posting of land throughout Montana. The Attorney General's opinion was cited by SEN. BECK. EXHIBIT 13

Proponents' Testimony:

Gordon Morris supports this bill. EXHIBIT 14

Robert VanDerVere supports this bill.

Pat Graham, FWP, supports this bill. EXHIBIT 15

Lorna Frank, Farm Bureau, supports this bill.

Opponents' Testimony: none

Questions From Committee Members:

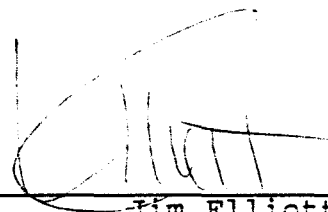
REP. PHILLIPS said the language, providing that the department "may develop and distribute posting signs" is vague. Mr. Graham said the department is not obligated to provide posting signs, but only has the discretion to provide signs. The department would consider providing signs where they would aid in cooperative land management objectives with private landowners.

Closing by Sponsor:

SEN. BECK urged support of SB 97.

ADJOURNMENT

Adjournment: 5:00 p.m.



Jim Elliott, Chair



Ginger Punttenney, Secretary

JE/gp



# HOUSE OF REPRESENTATIVES

## FISH AND GAME COMMITTEE

ROLL CALL

DATE 3-5-91

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	✓		

EXHIBIT 1  
DATE 3-5-91  
HB SJR 13

SJR 13  
March 5, 1991

Testimony presented by K. L. Cool, Dept. of Fish, Wildlife & Parks  
to House Fish and Game Committee

The department supports Senate Joint Resolution 13.

Chief Joseph and the Nez Perce Indians represent an important historic and cultural influence on Montana and on the nation. The resources at the Bear Paw Battlefield, the Big Hole Battlefield and at the Canyon Creek site should be protected commensurate with the importance they played in our nation's history.

The National Park Service is the best entity to preserve, protect and interpret these sites for the good of the sites, Montana and all Americans.

In supporting SJR 13, I commit our agency to cooperate fully with Congress and the National Park Service to designate and operate these three areas as National Historic Sites.

Thank you.

## *Surprise! Montanans favor fish, game hike*

The Montana Department of Fish, Wildlife and Parks is one of few state agencies that does not depend on general taxpayer support for its activities. Virtually all of its revenue comes from fees — and those fees have not been increased since 1983.

Because of inflation, and because the scope of the department's responsibility has been expanded greatly in the past decade, it faces a budget deficit of \$1.3 million by late 1992.

That has resulted in Senate Bill 171, a proposal for phased-in hikes in the price of hunting and fishing licenses. The measure has already passed the Senate by a comfortable margin and will be considered in the House Fish and Game Committee today.

Here are a few examples of the proposed price increases: A resident angler now pays \$9.50 for a season fishing license. He or she would pay \$11 in 1992 and \$12 in 1994. A resident elk license, now selling for \$10, would go to \$15 next year and \$20 in 1994.

For a non-resident, the season fishing license now priced at \$36 would jump to \$40 in 1992 and remain at \$40 in 1994. A combination elk license which now costs \$450 would rise to \$462 next year and remain at \$462 in 1994.

We think FW&P has done its homework in connection with this request. Public meetings were held in 19 Montana locations last year and comments were received from 1,700 individuals.

In general, 80 percent of the people who commented were in favor of reasonable fee increases. By about a 75 percent margin, Montana folks weren't anxious to increase the number of nonresident hunting permits in order to collect more revenue.

Think about that for a minute.

Montana's sportsmen and women — those who exercised their opportunity to speak out — indicated they will accept most of the responsibility for seeing that this state's outdoor resources are administered wisely in the future. Instead of grumping about higher fees, they're willing to bite the bullet.

They deserve a medal — or at least a nice fat Rainbow in their creel and elk steaks in the freezer.

Probably all of them have disagreed with the Fish and Game Commission at one time or another. It isn't hard for a controversy to erupt when the Treasure State's wild animals, fish, streams, birds, parks, boats, safety programs, trails, environmental laws, snowmobiles and other off-road vehicles are involved.

But, based on what they have said, they recognize the need to keep Fish, Wildlife and Parks on an even financial keel.

We think the new fee schedules are well thought out and justified. We agree that a large nonresident permit increase is not the best solution. And we think the Legislature should

RESPONSIBILITIES ADDED TO FWP  
OVER THE PAST 10 YEARS

EXHIBIT 3 P. 5/10/91  
DATE 3-5-91  
SB 171

Administrative

1. Superfund Natural Damages Lawsuit and Cleanup

Over the past few years the Department has worked with other entities to assess the environmental damage on the Clark Fork River and to determine the extent of application of the Superfund law.

2. Tribal Relations

The Department has invested considerable resources in negotiations with the Confederated Salish and Kootenai Tribes over the past three years. If Montana follows the pattern of other states, this effort will continue with other tribes in future years.

Conservation Education

1. Bowhunter Safety Education

All bowhunters ages 12-17 are required by law to enroll and pass a bowhunter safety program. The instruction is handled by volunteers but the program is administered by the Department.

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2. Shooting Ranges

The 1989 Legislature funded a shooting range program. The program is a "Giant" program funded with federal dollars, but administered by the Department.

3. Off-Highway Vehicles (ATV)

The Department administers the Off-Highway Vehicle Safety and Education Program. The purpose of the program is to promote the safe operation and handling of all terrain vehicles such as wide-tired 3 and 4 wheel vehicles, motorcycles, etc.

Enforcement

1. Protection of Private Property

Legislation passed that made it lawful to take wildlife to protect life or property. This required more involvement by the field wardens to verify kills, especially as it relates to grizzly, black bears and mountain lions.

2. Permitting of the Public for Raptor Propagation

Statutes were changed to require permits for captive raptor breeding projects. This law, along with the falconry laws passed earlier required field wardens to check falconers and do the followup paperwork involved to monitor these permits.

3. Control of Motorboat Noise Levels

Required motorboat noise levels be monitored by wardens along with their regular boat safety and registration enforcement.

4. Stream Access

Legislation passed to give the public the right of stream access. This required a major amount of additional warden time to answer complaints, investigate conflicts between floaters and adjacent landowners and additional patrol where necessary.

5. Buffalo Hunt

Legislation was passed that allowed buffalo hunts in the northern part of Yellowstone Park. This required the wardens to initiate regulations and actually accompany each individual hunter for buffalo control.

6. Game Farms

Laws were changed on Game Farm requiring annual issuance of fur, bird and game farm licenses. Another law required that we monitor the tattooing of certain captive animals.

7. Crimestoppers (TIP-Mont)

Crimestoppers program or TIP-MONT as we now call it, was authorized in 1985. This started October 1, 1985 with 59 calls, this fall (1989) we have documented over 500 calls relating to poaching reported on the toll-free number.

8. Boating While under the Influence of Alcohol

Legislation was passed to make boating under the influence of alcohol unlawful. This required special training for all field wardens and additional court time to fulfill this requirement.

9. Game Damage

Law were passed to require game damage response within 48 hours. This put a great strain on our field wardens since we do not have enough wardens to work shifts.

10. Special Investigation Unit

This unit was developed in 1987 to investigate the commercialization of illegally taken wildlife on a statewide basis. Uniformed officers are seldom effective in apprehending this type of violator because of the nature of their activities.

There are 19 active on-going investigations and approximately 60 cases on file awaiting investigation.

Field Services

1. Landowner-Sportsmen Program

A. Game Damage

Emphasis is placed on minimizing damage to private

property by wildlife. The effort includes a range of activities such as erecting fencing around hay stacks, conducting special hunting seasons, and game herding. It is very popular with both landowners and sportsmen.

B. Block Management

This program assists landowners in directing hunters during peak times during the hunting season.

Fisheries

1. Water Reservations

The 1985 Legislature passed the Water Policy Act which directed the state to initiate the water reservation process for the Missouri River Basin. Instream flows are a major component of any water reservation process and our agency is responsible for representing fish, wildlife and recreation interests.

2. Water Leasing

The 1989 Legislature passed the water leasing bill which established a four year pilot leasing program and required a study to be done. Our agency was directed to carry out the leasing program and complete the study. The leasing process is lengthy and complicated and requires considerable staff time to carry out.



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3. Hydropower Licensing/Relicensing

The development and operation of hydropower facilities can have a significant effect on Montana's fish and wildlife resources. The Department is involved to assure fishermen's interests are considered in the decision making process.

4. State Water Plan

In 1987, the DNRC initiated a revised water planning process which utilizes a state water plan advisory committee (SWPAC) and several technical committees. Many of the water issues addressed by the state water plan are of critical importance to FWP. FWP is a member of the SWPAC and provides staff for most of the technical committees.

5. River Restoration Act

This Act was passed by the 1989 Legislature to establish a program for the conservation of rivers and their fisheries.

The Department is developing rules for administration of the program. The program will consist of physical projects for improving rivers and their associated lands to conserve and enhance fish and wildlife habitat.

Parks

1. Acquisition of Park Sites

During the late seventies and early eighties 17 park sites

acquired. Maintenance and development efforts have increased particularly in the past 4-6 years as the sites are becoming popular and usage increases.

2. Federal Funds for Motorboat Access

In 1984, Congress amended the federal Dingell Johnson Act which resulted in increased funds for improving and developing motorboat facilities. Since that time, FWP has developed dozens of motorboat facility projects at little cost to the Montana sportsmen.

3. Statutory Changes

Compliance with new federal and state laws and regulations regarding liability, hazardous waste disposal, disabled accessibility, weed control, campground standards, drinking water standards, solid waste disposal standards, subdivisions, workmen's compensation, compensatory time, dam safety, and private contractor requirements.

Wildlife

1. Wildlife Habitat Acquisition

Approximately \$2.5 million annually is earmarked for a wildlife habitat program. Additional effort is required to purchase, develop and maintain newly acquired lands.

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2. Upland Bird Habitat Enhancement

Legislation provided for a pheasant enhancement program which was later expanded to a habitat effort. The program is geared to encourage and assist landowners in improving pheasant habitat.

3. Waterfowl Program

The Legislature establish the requirement for a state license to hunt waterfowl. The funds provide a funding base for waterfowl habitat enhancement projects.

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# DEPARTMENT FTE'S

LEGEND



FTE'S

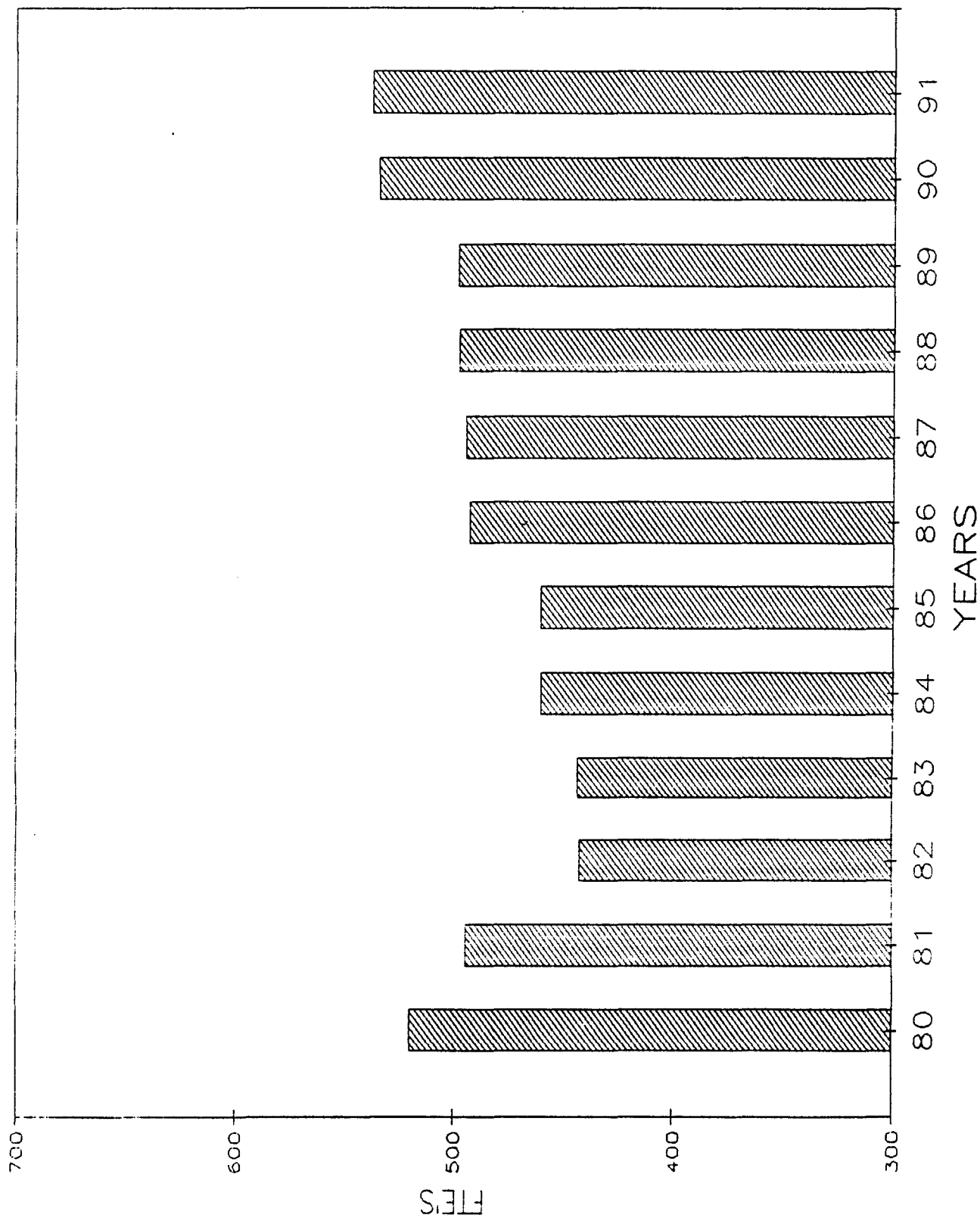


EXHIBIT 3 PS 9 88 12

DATE 3-5-91

BB 171

EX. 3 10 of 12  
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 SB 171

WESTERN ASSOCIATION OF  
 FISH AND WILDLIFE AGENCIES  
 COST TO HUNT COMPARISONS \*

RESIDENT

STATE	DEER	ELK	BLACK BEAR	TURKEY	MOUNTAIN LION	MOOSE	ANTELOPE	SHEEP	MOUNTAIN GOAT
CO	\$17.25	\$25.25	\$25.25	\$7.75	\$32.25	\$203.25	\$17.25	\$103.25	\$103.25
ID	15.50	21.50	14.00	14.00	18.00	79.00	40.50	79.00	79.00
MT	11.00	12.00	10.00	11.00	12.00	52.00	8.00	52.00	52.00
OR	17.00	29.00	20.00	20.00	63.00		38.00	103.00	
UT	15.00	45.00	37.00	17.00	38.00	115.00	40.00	215.00	215.00
WA	28.50	33.50	28.50	28.50	33.50	163.50		88.50	63.50
WY (PROPOSED)	30.00	40.00	25.00	15.00	55.00	80.00	30.00	255.00	105.00
MAX	\$30.00	\$45.00	\$37.00	\$28.50	\$63.00	\$203.25	\$40.50	\$255.00	\$215.00
MT (PROPOSED--3/94)	\$19.00	\$24.00	\$19.00	\$15.00	\$19.00	\$79.00	\$16.00	\$79.00	\$79.00
MT (PROPOSED--3/92)	\$16.00	\$19.00	\$15.00	\$8.00	\$17.00	\$64.00	\$13.00	\$64.00	\$64.00
MT (CURRENT)	\$11.00	\$12.00	\$10.00	\$11.00	\$12.00	\$52.00	\$8.00	\$52.00	\$52.00
MIN	\$11.00	\$12.00	\$10.00	\$7.75	\$12.00	\$52.00	\$8.00	\$52.00	\$52.00

NONRESIDENT

STATE	DEER	ELK	BLACK BEAR	TURKEY	MOUNTAIN LION	MOOSE	ANTELOPE	SHEEP	MOUNTAIN GOAT
CO	\$120.25	\$210.25	\$210.25	\$50.25	\$185.25		\$120.25	\$503.25	\$503.25
ID	177.00	322.00	177.00	112.00	187.00	598.00	183.00	598.00	598.00
MT	200.00	450.00	122.00	68.00	322.00	322.00	122.00	322.00	322.00
OR	176.00	266.00	176.00	126.00	254.00		229.00	1,004.00	
UT	120.00	220.00	190.00	45.00	290.00	1,120.00	220.00	1,120.00	
WA	176.50	226.50	276.50	141.50	426.50	426.50		426.50	276.50
WY (PROPOSED)	155.00	405.00	105.00		255.00	505.00	155.00	1,005.00	755.00
MAX	\$200.00	\$450.00	\$276.50	\$141.50	\$426.50	\$1,120.00	\$229.00	\$1,120.00	\$755.00
MT (PROPOSED--3/94)	\$238.00	\$462.00	\$125.00	\$73.00	\$325.00	\$455.00	\$150.00	\$455.00	\$455.00
MT (PROPOSED--3/92)	\$238.00	\$462.00	\$125.00	\$73.00	\$325.00	\$455.00	\$150.00	\$455.00	\$455.00
MT (CURRENT)	\$200.00	\$450.00	\$122.00	\$68.00	\$322.00	\$322.00	\$122.00	\$322.00	\$322.00
MIN	\$120.00	\$210.25	\$105.00	\$45.00	\$185.25	\$322.00	\$120.25	\$322.00	\$276.50

\* Price includes prerequisite licenses like Montana's Conservation license

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 DATE 3-5-91  
 SB 171

WESTERN ASSOCIATION OF  
 FISH AND WILDLIFE AGENCIES  
 COST TO FISH COMPARISONS\*

RESIDENT		NON RESIDENT				
STATE	SEASON	SEASON	1 DAY	2 DAY	3 DAY	5 DAY
CO	\$15.25	\$40.25	\$5.25			\$18.25
ID	16.00	41.00	6.00		11.00	
MT	11.50	38.00		10.00		
OR	14.50	35.50	5.00	9.50	14.00	
UT	18.00	40.00	5.00			15.00
WA	15.00	41.00			15.00	
WY (PROPOSED)	15.00	35.00				
MAX	\$18.00	\$41.00	\$6.00	\$10.00	\$15.00	\$18.25
MT (PROPOSED--3/94)	\$16.00	\$45.00		\$15.00		
MT (PROPOSED--3/92)	\$15.00	\$45.00		\$15.00		
MT (CURRENT)	\$11.50	\$38.00		\$10.00		
MIN	\$11.50	\$35.00	\$5.00	\$9.50	\$11.00	\$15.00

\* Price includes prerequisite license such as Montana's Conservation License

PHASED-IN LICENSE FEE INCREASES

<u>License Name</u>	<u>Current</u>	<u>March 1, 1992</u>	<u>March 1, 1994</u>
RESIDENT			
Antelope	\$ 6.00	\$9.00	\$12.00
Black Bear	8.00	11.00	15.00
Conservation	2.00	4.00	4.00
Deer A	9.00	12.00	15.00
Deer B	6.00	7.00	8.00
Elk	10.00	15.00	20.00
Fishing	9.50	11.00	12.00
Goat	50.00	60.00	75.00
Moose	50.00	60.00	75.00
Mountain Lion	10.00	13.00	15.00
Paddlefish	3.00	4.00	5.00
Sheep	50.00	60.00	75.00
Sportsman	45.50	54.00	64.00
Turkey	3.00	4.00	5.00
NONRESIDENT			
Antelope	120.00	145.00	145.00
Bird	53.00	55.00	55.00
Conservation	2.00	5.00	5.00
Deer Combo	200.00	238.00	238.00
Deer Combo, Outfitter	200.00	248.00	248.00
Deer Combo, Landowner	200.00	248.00	248.00
Elk Combo	450.00	462.00	462.00
Elk Combo, Outfitter	450.00	472.00	472.00
Fish, 2 day	8.00	10.00	10.00
Fish, Season	36.00	40.00	40.00
Goat	320.00	450.00	450.00
Moose	320.00	450.00	450.00
Paddlefish	10.00	15.00	15.00
Sheep	320.00	450.00	450.00
Drawing Fee	2.00	3.00	3.00
Elk Permit	0.00	2.00	3.00
Archery	7.00	8.00	8.00

31.67

EXHIBIT 4  
DATE 3-5-91  
SB 171

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME Jack Puckett BILL NO. SB-171

ADDRESS 2307 Pauline Dr. Missouri Mt DATE 3-5-91

WHOM DO YOU REPRESENT? Big Sky Upland Bird Assoc.

SUPPORT x OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS: see attached sheet.



Ex. 4 pg 2 of 2  
3-5-91  
SIB 171  
March 5, 1991

Testimony on S.B.-171  
before the House of Representatives

My name is Jack Puckett. I live in Missoula and represent the Big Sky Upland Bird Association. We would like to voice our support for S.B.-171.

It doesn't seem to matter what species of game or fish you want to pursue or view in Montana today, there is an abundant wildlife resource. Hunting seasons run from early September until January or February depending on the type of game you are hunting and the method of taking it. You can fish year round in most lakes and streams. Bag and possession limits are very liberal.

For the bow hunter, the wildlife watcher, the rifle hunter, the lion chaser, the upland bird hunter, the water fowler, and the fisherman there is something for everyone. But all this didn't just happen. The numbers, the variety, the distribution of species and the areas to hunt and fish all came about from the high quality management provided by the Department of Fish, Wildlife and Parks and financed by the sportsman's dollars. So if we expect this same high quality management in the future (and we do) we must expect to continue to pay for it.

There are over 17,000 non-resident hunters willing to pay nearly \$500.00 for the same privileges we residents currently enjoy for \$45.00. The nominal increase provided for in S.B.-171, and amended to be phased in over three years, still allows for the licensed resident to get by furnishing only 39% of the license revenue. The non-resident will still shoulder 61% of the cost. We feel that what ever way you look at it passage of S.B.-171 will still provide a bargain in hunting and fishing licenses for the Montana resident. As the man in the oatmeal ad on TV says, "it's the right thing to do."

EXHIBIT 5 pg 1/2

DATE 3-5-91

~~SB~~ 171

WITNESS STATEMENT

NAME Jeff Brandt BILL NO. SB 171

ADDRESS 615 S. SANDERS, HELENA DATE 3/5/91

WHOM DO YOU REPRESENT? Self

SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

(See Attached)

TESTIMONY (PROPONENT) OF JEFF BRANDT  
SENATE BILL 171

DATE: MARCH 5, 1991

FOR THE RECORD, MY NAME IS JEFF BRANDT. I'M TESTIFYING ON MY OWN BEHALF AS A PRIVATE SPORTSMAN IN FAVOR OF SENATE BILL 171.

I HAVE FIVE POINTS I WOULD LIKE TO MAKE:

ONE, THE FISH AND GAME LICENSE FEES WE MONTANAN'S PAY TODAY ARE AN EMBARRASSMENT. MONTANAN'S PAY THE LOWEST FEES OF ANY STATE TO TRY AND MANAGE ONE OF THE MOST ABUNDANT, DIVERSE, AND GEOGRAPHICALLY DISPERSED GAME POPULATIONS IN THE WORLD. BUT MY REASONS FOR SUPPORTING THIS LEGISLATION ARE NOT SIMPLY BECAUSE MONTANA'S FISH AND GAME LICENSES ARE CHEAPER THAN OTHER STATES. RATHER, I SUPPORT THIS LEGISLATION BECAUSE I TRULY BELIEVE THAT WE ARE STRANGLING NECESSARY FISH AND GAME MANAGEMENT AND ENFORCEMENT IN MONTANA.

TWO, I WANT TO PAY MY OWN WAY TO DEFEND MYSELF AGAINST AN EXPLODING ANTI-HUNTER MOVEMENT THAT SCARES THE HELL OUT OF ME. I WANT TO LOOK THE ANTI-HUNTER SQUARE IN THE EYE AND TELL HIM IT IS PEOPLE LIKE MYSELF, SPORTSMEN, WHO DO MOST FOR FISH AND GAME WELFARE THROUGH WELL FINANCED, GOOD FISH AND GAME MANAGEMENT. I WANT THEM TO KNOW I PUT MY MONEY WHERE MY MOUTH IS.

THREE, I DON'T WANT TO HAVE TO APOLOGIZE TO THE OUT-OF-STATE SPORTSMAN. I DON'T WANT SOMEONE ELSE TO PAY MY WAY AND I KNOW THERE IS NO SUCH THING AS A FREE LUNCH. IF I'M NOT WILLING TO PAY FOR MY OWN FISH AND GAME MANAGEMENT I'LL LOSE MY OPPORTUNITY TO THOSE THAT WILL. PLEASE DON'T SQUEEZE ME OUT OF THE PICTURE.

FOUR, I WANT TO PAY MY OWN WAY AND I WANT TO PAY ENOUGH TO DO IT RIGHT. LET'S GIVE THE FISH AND GAME MANAGERS THE FINANCIAL RESOURCES TO DO IT RIGHT. WE HAVE MORE THAN ENOUGH OPPORTUNITY TO HOLD FISH AND GAME MANAGERS ACCOUNTABLE. I BELIEVE ACCOUNTABILITY IS A COMPLETELY SEPARATE ISSUE. GAME MANAGERS DESERVE THE TRUST TO MANAGE GAME AND NOT BUILD BUREAUCRACY. PLEASE GIVE THEM THE RESOURCES TO LET THEM DO THEIR JOB.

FIVE, I WANT TO PAY FOR ADEQUATE LEVELS OF FISH AND GAME MANAGEMENT AND ENFORCEMENT. IF LICENSE FEES AREN'T SUFFICIENT THE DEPARTMENT WILL BE FORCED TO SACRIFICE BIOLOGISTS FOR GAME WARDENS, OR GAME WARDENS FOR BIOLOGISTS. WE NEED THEM BOTH.

IF THIS REALLY IS THE LAST BEST PLACE LET'S KEEP IT THAT WAY.

I URGE YOU TO VOTE IN FAVOR OF SENATE BILL 171.

THANK YOU.

Jeff Brandt  
3/5/91

Cx. 5

pg 2062

3-5-91

My name is Thaddeus A. Harrington, Missoula, MT. I am here today in support of Senate Bill 171, to increase certain hunting and fishing license fees.

Modern, regulated hunting is a viable and beneficial recreational use of renewable wildlife resources in complete accord with man's moral tenets and the historical facts of his existence. Montana's hunting heritage has been wrongfully attacked by uninformed and misguided animal rights extremists and anti-hunting organizations. One of the best defenses against this developing malignancy is a strong Montana Department of Fish, Wildlife and Parks. Increased funding is needed for the Department to properly carry out their educational programs, management operations, law-enforcement and research. The Department is financed solely by sportsmen and women through hunting and fishing license fees and various federal taxes on hunting and fishing equipment and supplies. Therefore, an increase in license fees is sorely needed.

Currently 69% of the non-federal funds are generated by sale of non-resident licenses, i.e. by out-of-staters. Only 31% of the Department's non-federal funds are provided by the sale of resident hunting and fishing licenses. Department programs cannot help but favor the needs of the sportsmen that provide the biggest share of agency funding. I believe that under the current funding split outfitters and guides and their out-of-state clientele could have undue influence on the Department's programs. This funding split must be brought into better balance so that we Montanans are paying more nearly our share. No increase in the number of non-resident licenses should be allowed. The price of non-resident licenses should be increased, but the price of resident licenses should be increased proportionately greater. Senate Bill 171 would appear to provide a funding split of 61% from non-resident license fees and 39% from resident fees. This is an excellent first step towards placing Montana residents in the position where they can voice their needs to the Department with the knowledge they are providing a more reasonable share of the Department's funding. The bill also provides more adequate funding to the Department at a very crucial time. Thank You.

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME IRA T. HOLT BILL NO. SB171  
ADDRESS PO Box 938 HAMILTON 59840 DATE 3/5/91  
WHOM DO YOU REPRESENT? RAVALLI COUNTY FISH & WILDLIFE ASSOCIATION  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_  
COMMENTS: WRITTEN STATEMENT ATTACHED -



2x. 7 pg 2 of 2  
3-5-91

## Ravalli County Fish & Wildlife Association SB171

P.O. BOX 938 • HAMILTON, MONTANA 59840-0938

### Statement of Support for SB171 ( License Fee Increases )

At several Board of Directors meetings ( the most recent on February 12, 1991 ) and at least one general membership meeting in the last year, the Ravalli County Fish & Wildlife Association has supported the concept of license fee increases.

We feel that as demands on the fish and wildlife resource continue to grow, an effective, well funded fish and wildlife management agency is necessary. Funding for the "core" or "nuts and bolts" of the fish and wildlife management part of the Montana Department of Fish, Wildlife and Parks is by license fees only and is not from the general fund.

To avoid a cut back in services, a fee increase at this time is necessary. The only change to SB171 that might be made is to phase in the increases, and, if that is done, maybe an even greater increase might be made. Resident hunting and fishing licenses, even with a substantial increase, are indeed a bargain when compared to other recreational costs.

An article entitled "The Domino Effect" in the March 1991 issue of Outdoor Life magazine points out what can happen when a poorly funded management agency is under attack by anti-hunting groups.

Increased funding is necessary to keep Montana's hunting and fishing as some of the best in the nation. The best way to accomplish this is through increased license fees.

Ira T. Holt  
President

EXHIBIT 8 Pg 1 of 2  
DATE 3-5-91  
SB 171

WITNESS STATEMENT

NAME Robert C. Lucas BILL NO. 171  
ADDRESS 5050 Huckleberry Rd, Missoula DATE 3/5/91  
WHOM DO YOU REPRESENT? Montana Wildlife Fed., & self  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Prepared statement attached.

TESTIMONY ON SB 171, HOUSE FISH AND GAME COMMITTEE, MARCH 5, 1991

Robert C. Lucas, 5050 Huckleberry Rd., Missoula, MT 59803, Telephone 543-8497.

Mr. Chairman and members of the committee:

My name is Bob Lucas. I live in Missoula.

I strongly support SB 171 to phase in increases in the cost of Montana hunting and fishing licenses. I am an Associate Director of the Montana Wildlife Federation which supports a phased increase. I also hunt and fish and think that these outdoor pursuits are an important part of what makes Montana a great place to live. I want a strong wildlife program, including, for example, high quality management of State Wildlife Management Areas, improved landowner-sportsmen relations, expanded block management, and good law enforcement, especially continued sting operations to put wildlife thieves out of business. The only way to do this is to raise license fees. This is the Department of Fish, Wildlife and Parks' basic source of income; the Department receives no general tax money at all. License fees, except for a few earmarked increases, have not gone up since 1983. That's a long time, and Department income is inadequate to even maintain programs into the future.

The size of the proposed increases are modest and acceptable--in fact, I hope they are big enough to do the job. The total increase that I would pay for a Sportsman's License and, with luck, a special tag or two, in 1994, when the full increase is phased in, would still be less than it costs to gas up my old pickup one time.

Something doesn't make sense when a resident deer or elk license costs less than a box of rifle shells. I figure my license costs for last year worked out to about \$1.10 per day, and this was way less than 10% of my total expenses to hunt and fish. Surely Montana's fishing and hunting is worth more than that! I really believe that anyone who can afford to hunt or fish at all can well afford the proposed license costs.

If those of us who hunt and fish in Montana are not willing to pay reasonable license costs, then we can expect to see our resources and opportunities to enjoy them dwindle away. That would be tragic!



TESTIMONY SUPPORTING HB 171, HOUSE FISH & GAME COMMITTEE, 3-5-91

Martin Onishuk, 5855 Pinewood Ln, Missoula, MT 59803

Mr. Chairman and members of the committee:

My name is Martin Onishuk. I live in Missoula. My comments are based on my experiences hunting, fishing, and camping throughout this state; serving as a volunteer laborer at Ninepipe Wildlife Management Area in the Flathead Valley; and conversations with farmers and ranchers who have allowed me to hunt and fish on their properties.

Montana's wildlife and open space is a fabulous asset to all who live in this state and to those from all over the world who visit here. We all take pride in the variety and abundance of our wildlife and want to see it thrive. Hunting, fishing, camping, and watching wildlife provide the foundation for numerous large and small businesses, as evidenced by videos of elk bugling and turkey calling being played in K-Mart and ShopKo.

Right now this priceless wildlife legacy and the traditions of hunting, fishing, and camping, are rapidly being threatened by all sorts of developments Montanans have never before experienced. Wildlife habitat is being taken out by clean farming and grazing, subdivisions, and commercial developments. Huge tracts of land formerly open to the public are being "Turnerized" or tied up by commercial outfitters for exclusive use of their clients. The Federal and state lands are so besieged with hunters that the quality of the hunting, and the future of certain animals such as sheep, mountain goat, and grizzly bear, are of growing concern.

As you can see from the data presented by the Department of Fish, Wildlife and Parks, we are hard pressed to maintain the the current programs, let alone meet the uncertain future. The Department is doing a fine job with what it has to work with, but it is altogether too dependent on the fees paid by out-of-state sportsmen and the continuing generosity of private landowners who are allowing free access. The small increases in license fees proposed in HB 171 are a step in the direction of redressing these flaws. and developing management programs that insure that we all will have places to hunt, fish, camp, and roam, and the wildlife that makes Montana a special place far into the future.

EXHIBIT 10 <sup>PS</sup> 7d  
DATE 3-5-91  
88 171

Mr. Chairman, members of this committee. My name is

Kelly Flynn. I am a rancher and outfitter from Broadwater County. I also serve on an area landowner - sportsman committee. I rise in support of legislation funding the projected deficit in Fish, Wildlife, and Parks over the next six year period.

As an outfitter, I recognize that strong Fish and Wildlife programs with the money to support them are essential to the stability and improvement in the outfitting industry. Maintaining and working to improve on Montana's quality wildlife and fisheries programs are vital to the outfitting industry.

As a member of this state, I represent the opinions of 324 sportsmen who took time to fill out a questionnaire addressing the budget deficit problem of the Fish and Wildlife Department. These people responding were the individuals that frequent the businesses of our state. These were some of the individuals that own businesses in our state. They were individuals that go to our high school ball games and matches. They were people who bowl in our bowling leagues. They were sportsmen and women who fill up at our gas stations, eat at our restaurants, buy food at our grocery stores, and drink at our bars. They were the men and women that purchase goods at our auto parts, hardware, and farm stores. These people were given several choices on how they would like to address the budget deficit and asked to pick the one they would most prefer.

The four choices were:

(A) The increase in hunting license fees as proposed in the original Senate Bill 171.

cx. 10  
3-5-91  
SB 171  
Pg 2 of 3

(B) A sale of 1500 more nonresident elk combination licenses, 3000 deer combination licenses, a larger fee increase in nonresident licenses, and a small increase in resident deer, elk, fishing, and conservation licenses.

(C) A 50% cut in the proposed increases in resident license fees from (A) i.e. elk resident license would be \$15 versus \$20, deer A tag would be \$12 versus \$15. A 50% cut in the proposed increase in nonresident combination licenses from Proposal A. i.e. 750 nonresident elk combination licenses versus 1500 from A, 1500 nonresident deer combination licenses versus 3000 from A.

(D) Cut Fish, Wildlife, and Parks programs by approximately \$3.5 million per year for the next 6 year period which will force the cut of many current personnel and programs.

Copies of this questionnaire are currently on file with the wildlife division of the Fish, Wildlife, and Parks. Of these 324 people, 13 favored Proposal A. 94 favored Proposal B. 123 favored Proposal C. 94 favored the proposal that would cut the budget and the programs. 70% of the people supported proposals that would fund the deficit. The greatest number of people supported Proposal C which calls for a substantial raise in resident fees and a limited addition of nonresident licenses.

The results of this questionnaire supports combining Senate Bill 171 with amendments and additional legislation that will provide a limited increase in nonresident combination license in order to fund the entire projected deficit. The addition of 750 nonresident elk combination licenses and 1500 nonresident deer combination

licenses would fund the shortfall of \$500,000 that the Fish  
and Game still projects if Senate Bill 171 passes with no  
other amendments.

EXHIBIT 10  
DATE 3-5-91  
SB 171

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On a personal note, I would suggest that a large  
portion of the money generated from the increase in  
nonresident combination license numbers be devoted to the  
block management program that the Fish and Game is having  
success with or, to some revolutionary compensation program  
for landowners allowing public hunting during the regular  
seasons.

Thank you for your time and consideration.

Kelly J. Flynn

## Montana Rifle & Pistol Association



affiliated with  
National Rifle Association

CHARLIE HUGHES  
LEGISLATIVE CHAIRMAN / MR&PA  
1106 EAST SECOND ST.  
BUTTE, MT 59701

HOUSE FISH AND GAME COMMITTEE  
CAPITOL BUILDING  
HELENA MT

3/5/91

MR. CHAIRMAN AND COMMITTEE MEMBERS,

THE MONTANA RIFLE AND PISTOL ASSOCIATION WISHES TO VOICE OUR  
SUPPORT FOR SB 171. WE FEEL THAT THIS IS GOOD LEGISLATION AND  
SUPPORT THE FEE INCREASES.

THANK YOU FOR YOUR CONSIDERATION OF OUR POSITION.

SINCERELY,

CHARLIE HUGHES  
CHAIRMAN \ LEGISLATIVE COMMITTEE

*Please Delivery To  
House Fish & Game Committee  
Secretary for the Hearing  
Today in Room 314 at 3:00*

*They want 26 New People* under ver  
12 pg 1 of 2  
EXHIBIT  
DATE 3-5-91  
SB 171

## DEPARTMENT OF FISH, WILDLIFE, & PARKS

### "One-time Only" Modifications

The 1989 legislature, in approving \$1,746,411 in program expansions and increased expenditures for the 1991 biennium in six of the department's programs, included the following language concerning these expenditures in House Bill 100: "In preparing the 1993 biennial budget for legislative consideration, the office of budget and program planning and the legislative fiscal analyst's office may not include [these] expenditures...in the current level base."

The department is considering an additional \$174,295 (the Missouri River

Basin Water Reservations and the Little Missouri Water Reservations program expansions) as one-time-only appropriations although no specific language concerning these appropriations exists in House Bill 100.

The department is requesting continuation of these program expansions during the 1993 biennium. Table 1 lists these "one-time-only" modifications and shows their 1991 biennium appropriations, approved FTE levels, and the amount included in the Executive Budget for each modification expansion in the 1993 biennium.

Table 1  
Department of Fish, Wildlife, and Parks  
Modifications for One-Time-Only Programs

Program	Modification	1991 Biennium Approved Amount		1993 Biennium Requested Amount	
		(\$)	(FTE)	(\$)	(FTE)
Field Services	Block Management	\$335,782	3.30	\$346,228	3.30
	Fish. & Motor. Access	74,353	1.00	81,330	1.00
	Microcomputer Support	47,382	1.00	63,704	1.00
Fisheries	MO Basin Res.*	120,000	0.00	120,000	0.00
	Little MO Res.*	54,295	1.50	46,826	0.00
	Streambank Projects	82,000	0.00	82,000	0.00
	USFS Fish Data**	93,970	1.25	114,999	1.25
	Evaluate Fish Pop.***	207,946	2.50	220,354	2.50
	Fish. & Motor. Access	71,860	0.75	66,071	0.75
	Flathead Lake Fishery	43,368	0.50	47,853	0.50
Law Enforcement	Enforce. Relocation	54,000	0.00	54,000	0.00
Wildlife	Hab./Timber Plans	32,827	0.00	32,500	0.00
	Helicopter Rental	181,200	0.00	181,200	0.00
Con. Ed.	Non-game Wildlife	57,115	0.60	60,000	0.60
Administration	Salinity Control	150,000	0.00	150,000	0.00
	Sikes Act	250,000	0.00	300,000	0.00
	Predator Control	40,000	0.00	108,000****	0.00
	Legal Services	24,608	0.00	24,600	0.00
TOTALS		\$1,920,706	12.40	\$2,099,665	10.90

\* Included as one budget modification for the 1993 biennium in the Executive Budget. The department has contracted, rather than filled, the 1.5 FTE for the Little Missouri.

\*\* 1.0 FTE approved in fiscal 1990

\*\*\* 2.0 FTE approved in fiscal 1990

\*\*\*\*Contains \$68,000 of funds to be transferred to DSL for administration of DFWP dams.

Ex 12 pg 2 of 2  
3-5-91  
8B171

## DEPARTMENT OF FISH, WILDLIFE, & PARKS

### Program Expansions

In addition to continuing these "one-time-only" programs, the Executive Budget includes \$3,573,221 and 16.59 FTE for additional programs and program ex-

pansions in the 1993 biennium. General fund is requested to fund the \$1.5 million Parks Division modification. These requests are summarized in Table 2.

Table 2  
Department of Fish, Wildlife and Parks  
Modifications for Program Expansions

Program	Modification	Fiscal 1992		Fiscal 1993		Biennium Total (\$)
		Amount (\$)	FTE	Amount (\$)	FTE	
Mgn. Services	Fiscal Mgn. Position	\$ 35,105	1.00	\$ 33,726	1.00	\$ 68,831
	Vehicle Account	77,732	0.00	81,113	0.00	158,845
Field Services	Block Mgn. Expansion	137,000	3.00	137,000	3.00	274,000
	Game Damage	50,000	0.00	75,000	0.00	125,000
	Sporting Info.	17,000	0.00	17,000	0.00	34,000
	Lic. Agt. Commissions	10,300	0.00	97,300	0.00	107,600
	Dept. Property	60,000	0.00	60,000	0.00	120,000
	Land Records	35,000	0.00	35,000	0.00	70,000
Fisheries	Clark Fork Invest.	50,042	1.00	50,040	1.00	100,082
	Fish Hatchery Op.	55,000	0.00	55,000	0.00	110,000
	Handicapped Fish Regs	6,000	0.00	0	0.00	6,000
Law Enforcement	Special Invest.	80,000	1.00	80,000	1.00	160,000
Wildlife	Canyon Ferry LMA	7,712	0.40	7,706	0.40	15,418
Parks	Park Futures Comm.	750,000	8.06	750,000	8.06	1,500,000
	Fish. Access Maint.	50,000	0.63	50,000	0.63	100,000
	Capitol Grounds	27,776	0.50	27,769	0.50	55,545
Con. Ed.	Watchable Wildlife	22,900	0.00	25,000	0.00	47,900
	Update Hunter Ed.	25,000	0.00	25,000	0.00	50,000
Administration	Legal Services	50,000	1.00	50,000	1.00	100,000
	Tribal Relations	40,000	0.00	40,000	0.00	80,000
	Interagency Support	25,000	0.00	25,000	0.00	50,000
	GIS	50,000	0.00	40,000	0.00	90,000
	Reg. Office Support	75,000	0.00	75,000	0.00	150,000
TOTALS		\$1,736,567	16.59	\$1,836,654	16.59	\$3,573,221

### Issues

permits, provides nearly 50 percent of total department funding.

### Fund Balance

The Fish and Game Commission is requesting hunting and fishing license fee increases totalling \$5.17 million during the 1993 biennium, \$4.9 million of which will be deposited into the general license account. The general license account, which receives 97 percent of its revenue from the sale of hunting and fishing licenses and other

From fiscal 1987 through fiscal 1990, the department expended more general license account dollars than it collected. In addition, fiscal 1991 appropriations are in excess of anticipated revenues. This revenue/expenditure imbalance has reduced the general license account's ending fund balance from \$8.98 million in fiscal 1986 to \$5.52 million in fiscal 1990. This imbalance exists

Crosby

Attorney  
2210 E. 6th

General  
Helena, Montana

Opinion

EXHIBIT 13  
DATE 3-5-91 SB 97  
Service Aug 1991

VOLUME NO. 42

OPINION NO. 96

HIGHWAYS - "No Trespassing" notice along unfenced private property lying adjacent to county road;

TRESPASS - Use of "No Trespassing" notice on unfenced property lying adjacent to public road;

MONTANA CODE ANNOTATED - Section 45-6-201.

HELD: Private property that is unfenced along public roadways may not be closed to public access through the use of orange markings placed on posts located where the road enters the private property.

13 July 1988

Wm. Nels Swandal  
Park County Attorney  
Park County Courthouse  
Livingston MT 59047

Dear Mr. Swandal:

You have asked my opinion on the following question:

May "No Trespassing" notices be placed within a county road right-of-way on the posts of a fenceline that lies perpendicular to the road and delineates private property that a landowner desires to close to public access?

Your opinion request evolved through the interaction of three groups: landowners who desire to post their property in compliance with the revised criminal no-trespassing statute, § 45-6-201, MCA; sportsmen who desire enhanced public access and claim the "No Trespassing" signs mislead the public; and Park County officials who seek to settle the dispute while protecting the integrity of the county road right-of-way.

The county roads in question are public rights-of-way that run through private property that is unfenced along the roadway. Occasionally the roadway's cross a property line that divides two parcels held in separate ownership. On these property lines the landowners erect fences, often in conjunction with stock gates across the road surface. The fences separate one grazing field from another, but the county road that bisects the open pasture is otherwise unfenced along its route.

The owners of these pastures have adopted an easy method of posting their fields closed to trespassing. Upon the assumption that the point at which the public road crosses the fenceline and cattle gate is an access



point, the owners have painted orange the posts on either side of the gate. This assumption is based upon the revised criminal trespass statute, § 45-6-201, MCA. That statute provides that orange paint on fence posts may be used to give notice of no trespassing. The statute contains several requirements that must be met before property is considered closed. One such requirement is that each "normal point of access" must be posted with the proper amount of orange paint. Apparently, the landowners have attempted to convey to motorists that the property on either side of the road, following the orange marking, is closed to the public.

The immediate problem with this practice of posting is that orange paint on either side of an entry through a fenceline typically indicates that all property beyond the marking is closed to access. On similar facts the Montana Supreme Court recently upheld the criminal trespass conviction of a motorist who inadvertently drove down a road through a gate marked with orange paint. State v. Blalock, 45 St. Rptr. 1008, \_\_\_ P.2d \_\_\_ (1988). The landowners in your request are unable to convey through their orange marking that a motorist may cross the fenceline, enter the next field, stay on the roadway and not actually trespass. As the sportsmen's group has brought to your attention, this form of posting will likely mislead the public.

The landowners' intent here is clear. Unfortunately, the liberal posting requirements of the revised criminal trespass statute were not designed for application to the present situation. I doubt that the Legislature anticipated or contemplated the factual situation of an unfenced public right-of-way crossing fields that landowners wanted closed. The points of access for these fields actually run the entire length of the unfenced public road. The situation simply does not lend itself to easy and unambiguous posting.

Landowners who desire the result of effective posting without additional fence construction must therefore pursue alternatives to orange markings. One alternative would be to place a conspicuous sign on the roadway's edge upon entering the private property stating "Private Property, No Trespassing Next \_\_\_ Miles." Another alternative would be to place conventional "No Trespassing" signs at regular intervals along the private property bordering the road. In any case, the present practice of painting the posts adjoining the roadway at a fenceline is a misapplication of the notice provisions of section 45-6-201, MCA. The misapplication not only fails to legally close the adjacent property to trespassing but also inhibits the public's use and enjoyment of the road.

THEREFORE, IT IS MY OPINION:

Private property that is unfenced along public roadways may not be closed to public access through the use of orange markings placed on posts located where the road enters the private property.

Very truly yours,

  
MIKE GREELEY  
Attorney General

MG/GS/gd  
4/2/96/2

NOV 01 1990

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Billings, MT 59105-0789

# Signs must be in proper places

By DEB DION

Ranger-Review Staff Writer

Improper hanging of signs by landowners in Dawson County will result in the loss of state funding for county roads, if the problem is not corrected soon.

The county commissioners, in an effort to clear up the problem, are reminding all land owners to post "No Hunting" and other signs on private property and parallel with the road, not on the county right of way.

This means signs can be posted on private fences parallel with the road but they cannot be posted on the county right of way or on fences or

cattle guards that run across the road.

The reason for this is the county is paid mileage by the state for maintaining county roads and if the signs are posted on the county road or if they indicate that the road is private, the county is not paid for maintaining that road, according to information from the commissioners.

Sometimes the signs are placed to restrict access off the road, but the highway department says the signs in effect indicate the road is closed.

Private driveways and roads can be marked with orange posts or signs can be placed on posts that cross the road.

The State Department of Highways stated in a letter to the commissioners the signing problem must be resolved in order to have the roads restored to the rural road system.

One solution would be to remove the signs and replace them with signs which read "Public road through

private land for next (number) miles." This indicates the road is open for public travel but trespassing off the road is forbidden. Another solution would be to just remove the signs.

The commissioners said they need to explain the problem that state funding will be withheld for roads that have improper signing. Commissioner Burt Oliphant said many of the signs are posted on cattle guards, which is probably the easiest place to put them and the signs are most likely to be seen there; but if the cattle guard is across a county road then the sign is improperly placed there.

The letter from the highway department states when the signing problems are corrected and Dawson County has informed the highway department that the corrections have been made, then the affected road mileage will be added to the Dawson County rural road system.

EXHIBIT 14

DATE 3-5-91

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97

DATE 3-5-91  
SB 97

SB 97  
March 5, 1991

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks  
to House Fish and Game Committee

This legislation provides specific requirements for the proper posting of private land through which the public has a legal right-of-way.

Our department supports the procedure embodied in SB 97 because these procedures provide a solution to a problem identified in a previous Attorney General's opinion. This bill will establish a method of posting unfenced private land through which or along which there is a public right-of-way. The Attorney General ruled that unfenced private property along public roadways could not be closed to public access by using orange marking on posts located where the road enters private property. The Attorney General reasoned that the use of orange marking might lead the public to believe that the roadway itself was private and closed.

The department worked with the Senate Fish and Game Committee on amendments to more precisely correct the defect in the present law. With one reservation, we supported the amendments that were adopted in the Senate. We do not believe the language on page 4, providing that the department "may develop and distribute posting signs" is necessary. We do not object to this language, however, as long as it is clear that the department is not obligated to provide posting signs, but only has the discretion to provide such signs.

For example, the department presently has a policy of providing signs to facilitate and manage public access under block management and in some other appropriate circumstances. The department would consider providing signs where they would aid in cooperative land management objectives with private landowners.

The department supports SB 97 as providing private landowners with a clear and reasonable means of posting unfenced land along public rights-of-way.

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Fish & Game COMMITTEE BILL NO. SJR 13

DATE 3-5-91 SPONSOR(S) Jerguson

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
K L Cool	D F W P	✓	

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**HOUSE OF REPRESENTATIVES  
VISITOR REGISTER**

Fish & Game

COMMITTEE

BILL NO. SB 171

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mike Lowry	Silvertip Archery	✓	
ED BALL	SPORTS INC	✓	
Garry Jasbender	FOAM	✓	
BOB BUGN	PRICKLY PEAR SPERMATOPHYTES - HILANA	✓	
Pat. Van der Vliet	Self		✓
Don CHANCE	MT. BOWHUNTERS ASSN.	✓	
Janet Ellis	MT Audubon	✓	
Stan Bradshaw	MTU	✓	
Valerie Horton	MWF	✓	
Bob Thoft	Sportsman		✓
Red Meyahan	Sportsman		✓
with Carlin	MT Wildlife Fed SOUTHERN MT SPORTSMAN ASSOC.	✓	
Paul Schorn	Brythe Sportana	✓	
John Delano		+	

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VISITOR REGISTER**

Fish & Game

COMMITTEE

BILL NO. SB 97

DATE 3-5-91

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gordon Morris	MAA	✓	
Lorna Frank	Harm Bureau	✓	
Tony Schriener	So/8	✓	
Stan Brackner	MTU	✓	
Marvin Barber	A.P.A.	✓	
Pat Graham	DFWP	✓	

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