

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Greg Jergeson, on March 18, 1991, at 3:00 P.M.

ROLL CALL

Members Present:

Greg Jergeson, Chairman (D)
Francis Koehnke, Vice Chairman (D)
Gary Aklestad (R)
Thomas Beck (R)
Betty Bruski (D)
Gerry Devlin (R)
Jack Rea (D)
Bernie Swift (R)
Bob Williams (D)

Members Excused: None

Staff Present: Doug Sternberg (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 574

Presentation and Opening Statement by Sponsor:

Representative Bob Thoft, District 63, stated he is the chief sponsor of HB 574. By way of background, he advised that there is a pretty aggressive biological control program in Montana, and a good deal of state money has been spent keeping it going. He stated the researchers get the insects from foreign countries, they are screened, and come to the researchers in very small numbers. A good deal of time is spent increasing those numbers in the greenhouse confinement, then they are put out in small release sites in hopes of propagation. This bill is attempting to protect those release sites so people do not collect the insects without the researchers' permission. It is his opinion that it is in the state's best interest to try to protect these research programs. He stated amendments are being presented to relieve concerns arising since the bill was heard in the House.

Proponents' Testimony:

JIM STORY, Montana State University, advised that biological control is a very popular control method being implemented against weeds in Montana. Because of that, the natural enemies being used in that effort are in very high demand. This high demand for the insects is a result of the increase in the monetary worth of these insects, and there exists the increasing likelihood of over-exploitation of these natural enemies in the relief sites by unscrupulous private entrepreneurs. Such exploitation not only threatens establishment of these very scarce insects, but it threatens Montana's considerable prior financial investment already given these insects. Montana invests somewhere between \$20,000 to \$120,000 per insect specie, according to Mr. Story. In no way do they wish to discourage involvement of the private sector in the re-distribution of those insects which are available for re-distribution, but a requirement of good record keeping by private entrepreneurs, and communication between the private sector and all involved agencies are needed to prevent over exploitation of a resource that is very valuable, but at present very scarce. He requested consideration for HB 574.

GARY GINGERY, Montana Department of Agriculture, stated he wished to emphasize that he is not testifying as a proponent or opponent of HB 574. He advised the Department has been asked to help develop some amendments, and he would explain the amendments if it is proper to proceed on that basis. Chairman Jergeson stated that would be in order, and Mr. Gingery presented the committee members with copies of the 70 proposed amendments to HB 574. Mr. Gingery stated he would explain the higher points of the amendments, and drew the committee's attention to Section 3 of the bill. As the bill passed the House, it required registration of sites of insectaries for insects or plant pathogens used to control weeds or insects. He noted within the amendments that section has now been eliminated and in place of that, Item No. 16 provides new language requiring that any person must obtain written permission to collect biological insects or plant pathogens at any research insectary or site. Mr. Gingery explained at length additional amendments (Exhibit #1). He also referred to the title and the statement of intent. Because of the elimination of the registration provisions and some other amendments, a slight modification of the title was made. Under the Statement of Intent, there is rule-making power under this bill, and therefore, slight modifications also had to be made in the Statement of Intent. He reiterated that as a Department they are not taking a position on HB 574.

Opponents' Testimony:

NOAH PORITZ, Biological Control of Weeds, Bozeman, advised that considering the changes that have been produced through the amendments at the "eleventh hour", much of what he had to say is

no longer applicable. However, he stated he would like to make a few comments, adding that he and his wife Leona operate a business which collects and markets bio-control aids. He advised they have been working this business commercially since 1986, and he previously worked with the USDA in a variety of research capacities over the past fifteen years, and has considerable experience in the field of bio-control. Much of what has changed in this legislation is acceptable to him as a commercial collector of bio-control organisms, and for those reasons he won't oppose it. However, he added there are a few constitutional questions he wished to bring up. One of these concerned the confidentiality of records. He referred to Article 2, Section 9 of the Montana Constitution which allows for public examination of all public records. Currently, all release records which are produced by county, state or federal agencies are a matter of public record. Excluding the registration of Montana records is somewhat in conflict, and he believes it should be dropped. He believes it is important for the public to know about what public employees are doing, and that includes the release of organisms in the environment. While this bill has been trimmed down somewhat fiscally, the cost of administration of HB 574 will still be considerable. There have been tens of thousands of sites in Montana where insects have been released through the environment, and there will be that many more. He believes it is conceivable that the cost will be greater than the fiscal note indicates for HB 574. He hoped that would be taken into consideration when considering budget matters.

Mr. Poritz stated that as this bill stands now, his business would not be eliminated. However, the way it stood one-half hour ago, it would have virtually shut him down in Montana. It is his opinion that this bill may be going "overboard" in terms of registering all commercial application of bio-control.

Mr. Poritz furnished written testimony setting forth his objections prior to the amendments being introduced (Exhibit #2). He also furnished a business brochure explaining biological control of weeds, and advertising his business (Exhibit #3).

The following persons did not speak before the committee, but submitted written testimony in opposition to HB 574:

JAMES R. RAZNOFF, Bozeman (Exhibit #4)
LEONA PORITZ, Biological Control of Weeds, Bozeman
(Exhibit #5)
DAVE PICKETT, Butte Weed Board, Butte (Exhibit #6)

Questions From Committee Members:

Senator Williams asked if the fiscal note remained the same. Rep. Thoft replied that as far as he knows, there is no fiscal impact. He believes the Department will review these records.

Senator Devlin asked what prompted all the amendments. Rep. Thoft advised there were some problems and legitimate concerns, and he suggested creation of a gray bill to enable easier reading of the bill. He added it was a matter of trying to make something work, yet be a little less restrictive.

In response to a question by Senator Devlin, Mr. Poritz advised that most states in which they conduct business issue blanket permits from the Departments of Agriculture and the Animal/Plant Health Inspection Service which authorize the interstate shipment of the insects they sell into those states. As a courtesy to those Departments of Agriculture, he provides a copy of how many of what species went where, and by whom on what date, to state entomologists in those states. A couple of states require that information, others do not, and some ask for voucher statements of the actual organism to keep in their collections.

Senator Devlin asked Mr. Poritz how long ago he learned of the amendments. Mr. Poritz stated he was made aware of the amendments approximately thirty minutes prior to the Hearing.

Senator Koehnke asked Rep. Thoft if he went along with the objections presented by Mr. Poritz. Rep. Thoft stated he guessed his objection was the public's right to know, and the problem with that is that they need protection for the researchers. It is his opinion that if everyone knows where the research sites are, it would make it very easy for individuals to take the insects and remove them to another state. The purpose of the bill is to keep that from happening. Since the Department will review the records, there will be no additional cost.

Senator Swift asked how many sites are located in Montana, to which Rep. Thoft replied he did not know. Senator Swift asked Mr. Poritz the same question regarding his business, to which Mr. Poritz informed that they work literally with dozens of sites where they collect insects. In many of the sites the insects have colonized naturally, after having been initially released at a research site and they spread from those locations. Without the USDA and state entomologists working in this field, Mr. Poritz stated he would have no product to sell. The taxpayers have actually funded the importation of these insects initially. He stated there are dozens of sites that were natural colonizations, and other sites they have purposely established with organisms that were not well established in the beginning. In those cases he either owns the land, leases it from the landowner, or landowners are most happy to offer a location to him. Senator Swift asked if Mr. Poritz divulges that information to entities in Montana. Mr. Poritz informed that the Department of Agriculture and the Animal/Plant Health Inspection Service have both had a conference with him stating that at some point they may request to visit the locations where he collects and works with his insects. To date they have not asked to go to

those sites, but the potential exists. He added that he has not asked those entities for information, but it should be available to the public.

Senator Rea asked if Mr. Poritz has any documentation on how well biological control works. He informed bio-control of weeds spans the whole spectrum - there is successful bio-control to the non-success with Canada Thistle. He stated they have a number of customers in Montana ranging from County Weed Districts to Federal Research Service.

Senator Devlin asked how the bugs are caught, to which Mr. Poritz stated every species is different. Some insects are caught one by one, hour by hour. Others are swept with a sweep net.

Senator Devlin asked Mr. Story from MSU if they had ever lost any insects. Mr. Story stated that it has not happened in the past, but given the increased monetary value of insects, the likelihood of this happening in the future does exist.

In response to a question by Senator Rea, Mr. Story advised that seed head flies are widely distributed throughout all the knapweed infested areas throughout Montana and their research to date suggests there are actually two different fly species and where these two species co-exist they are seeing approximately a 50% seed reduction, which is a significant step in managing knapweed.

Senator Devlin asked about the value of the insects, to which Mr. Story informed it depends on how difficult it is to collect them, how numerous they are, and other factors. Noah Poritz advised that those insects which are abundantly available, such as the seed head weevil, are about \$20.00 for 500 adults. Those insects such as the weevil that is collected one at time would be about \$1.00 each.

Senator Jergeson asked what is being done about the importation of an insect that might work on a weed but may possibly wipe out other beneficial crops. Mr. Poritz informed that before any organisms are released in the environment of North America, they undergo extensive quarantine testing in Europe and/or quarantine facilities such as the recently constructed facility at Montana State University. Those quarantine facilities allow organisms to be safely tested on a wide variety of both native plants or economically important crop plants. Once those tests have been completed, the data is provided to the Working Group of Biological Control of Weeds. That group is made up of members from USDA, Departments of Interior, governments of Canada, Mexico, the National Plant Board - a cross section of knowledgeable people. Those individuals will review the massive data on a particular organism, and make a determination as to the safety of releasing that organism in the environment.

Senator Jergeson asked Dave Pickett, Butte-Silver Bow Weed Board, if he wished to be heard. Mr. Pickett indicated that unfortunately another bill involving weed management was being heard in the House at exactly the same time, and for those who have an interest in representing their people on both bills it is impossible to give testimony on both bills. He requested that he be allowed to make a statement on HB 574. Chairman Jergeson advised that Executive Action would not be taken on HB 574 this date, and Mr. Pickett could submit written testimony.

Closing by Sponsor:

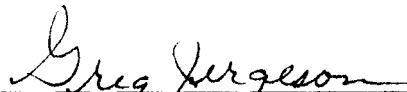
Representative Thoft commented that bio-control is always an interesting subject, and it is his opinion that it is the only thing that will work in this state for weed control. He added the purpose of this bill is to prevent some unscrupulous individual from taking some of those insects released from a research site, propagate them and sell them for his own financial gain. He added that the researchers are working for the gain of everyone. He concluded by stating the amendments answer some concerns, but still keeps something in place.

* * * * *

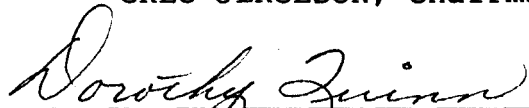
Chairman Jergeson advised that he requested Connie Erickson, Legal Counsel, to prepare a gray bill on HB 574 to enable the committee members to review the bill as it reads with the amendments.

ADJOURNMENT

Adjournment At: 4:15 P.M.



GREG JERGESON, Chairman



DOROTHY QUINN, Secretary

GJ/dq

ROLL CALL

AGRICULTURE COMMITTEE

DATE 3/18/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. JERGESON	X		
SEN. KOEHNKE	X		
SEN. AKLESTAD	X		
SEN. BECK	X		
SEN. BRUSKI	X		
SEN. DEVLIN	X		
SEN. REA	X		
SEN. SWIFT	X		
SEN. WILLIAMS	X		

Each day attach to minutes.

Amendments to House Bill No. 574

Third Reading

SENATE AGRICULTURE

EXHIBIT NO. #1

DATE 3/18/91

BILL NO. #574

1. Title, line 5
Following: "the" on line 4
Strike: "registration"
Insert: "notification"

2. Title, line 5
Following: "of"
Strike: "insectaries or sites where"
Insert: "the introduction or distribution of"

3. Title, line 6
Following: "pathogens"
Strike: "are"
Insert: "to be"

4. Page 1, line 14
Following: "[section"
Strike: "8"
Insert: "7"

5. Page 1, line 15
Following: "the"
Strike: "registration"
Insert: "notification"

6. Page 1, line 19
Following: "(1)"
Strike: "registration"
Insert: "notification"

7. Page 1, line 19
Following: "requirements"
Strike: "and information required for proper application of
registration of insectaries or sites, including a registration
fee"

8. Page 1, line 24
Following: "recordkeeping"
Strike: "required of persons registering an insectary or site"

9. Page 2, line 1
Following: "persons"
Strike: "maintaining registered insectories or sites"

10. Page 2, line 3
Following: "sites;" on line 2
Strike: "(5) suspension or revocation of registration;"

11. Page 2, line 4
Following: "registrations" on line 3
Strike: "6"
Insert: "5"

12. Page 2, line 5
Following: "and" on line 4
Strike: "7"
Insert "6"

13. Page 2, line 10
Following: "through"
Strike: "16"
Insert: "14"

14. Page 2, line 11
Following "Introduction"
Insert: "Collection"

15. Page 2, line 13
Following: "through"
Strike: "16"
Insert: "14"

16. Page 2, line 25
Following: "section 3"
Strike: All of the wording through page 3, line 20.

Collection of biological insects or plant pathogens.

- (1) Any person must obtain written permission to collect biological insects or plant pathogens at any research insectory or site or any person's initial insectory or site used to propagate and increase the number of insects or plant pathogens prior to further distribution from the applicable researcher or person. The written permission may include date of collection, numbers to be collected, the number of times collections may occur, and the names of biological insects or plant pathogen used for weed or insect control.
- (2) A copy of the written permission must be submitted to the department.

17. Page 3, line 21
Following: "lands" on line 20
Strike: All of Section 4 through page 4, line 24.

18. Page 4, line 25
Following: "Section"
Strike: "5"
Insert: "4"

19. Page 5, line 4

Following: "state."

Strike: "The department may not approve the introduction or distribution until registration is approved under (section 4) or distribution or sale of the insect or plant pathogen to another person is verified."

Insert: "The written notification shall include the person's name and address and the applicable recordkeeping requirements in [section 6 (2)]."

20. Page 5, line 9

Following: "Section"

Strike: "6"

Insert: "5"

21. Page 5, line 17

Following: "until"

Strike: "registration is approved under (section 4) or distribution or sale of the insect or plant pathogen to another person is verified."

Insert: "copies of all the valid permits and the written authorization and the name and address of the person are provided to the department."

22. Page 5, line 20

Following: "Section"

Strike: "7"

Insert: "6"

23. Page 5, line 20

Following: "Recordkeeping."

Insert: "(1)"

24. Page 5, line 20.

Following: "person"

Strike: "who registers an insectary of site under (section 4)"

25. Page 5, line 22

Following: "the"

Insert: "introduction"

26. Page 5, Line 25

Following: "department"

Strike: "annually or"

27. Page 6, line 1

Following: "request on page 5, line 25"

Strike: "The records must be available for review by any government agency involved with the propagation, rearing, sale, release, distribution, or collection of insects or plant pathogens."

Insert: "(2) The records shall include the following information:

(a) any permits or authorizations required by [section 5];

(b) a legal description of the location of insectary or site, by township, range and section;
(c) the name of the owner or manager of the land on which the insectary or site is located;
(d) the scientific and common name of the biological insect or plant pathogen;
(e) the name of the insects or weeds the biological insect or plant pathogen are intended to control;
(f) written documentation from the Montana state university experiment station or the United States department of agriculture, agricultural research service or animal and plant health inspection service that the insectary or site will not conflict or adversely affect a research insectary or site; and
(g) written verification from the appropriate county weed district that the insectary or site will not conflict or adversely affect a district's initial insectary or site for propagating and increasing the number of biological insects or plant pathogens prior to further distribution in the county.

(3) A person who establishes an insectary or site on their own land or on land under their management and uses the biological insects or plant pathogens for their personal and non-commercial control of insects or weeds is exempt from the requirements of this section [section 6], except when the requirement of [section 4] apply."

28. Page 6, line 5
Following: "Section:
Strike: "8"
Insert: "7"

29. Page 6, line 7
Following: "through"
Strike: "16"
Insert: "14"

30. Page 6, line 9
Following: "for:" on line 8
Strike: "(1) registration of insectaries or sites and the fee for registration;"

31. Page 6, line 11
Following: "registration;" on line 10
Strike: "2"
Insert: "1"

32. Page 6, line 11
Following: "[section
Strike: "5" and "6"
Insert: "4" and "5"

33. Page 6, line 12
Following: "section 5 and 6];" on line 11
Strike: "3"
Insert: "2"

34. Page 6, line 12
Following: "[section "
Strike: "7"
Insert: "6"

35. Page 6, line 13
Following: "[section 7];" on line 12
Strike: "4"
Insert: "3"

36. Page 6, line 13
Following: "persons"
Strike: "maintaining registration under [section 4]"

37. Page 6, line 15
Following: "through"
Strike: "16"
Insert: "14"

38. Page 6, line 16
Following: " 16];"
Strike: "(5) suspension or revocation of registration;"

39. Page 6, line 17
Following: "registration;" on line 16
Strike: "6"
Insert: "4"

40. Page 6, line 18
Following: "[section"
Strike: "15"
Insert: "13"

41. Page 6, line 19
Following: "and" on line 18
Strike: "7"
Insert: "5"

42. Page 6, line 20
Following: "through"
Strike: "16"
Insert: "14"

43. Page 6, line 21
Following: "Section"
Strike: "9"
Insert: "8"

44. Page 6, line 22
Following: "Records." on line 21
Strike: "ALL INSECTARY OR SITE REGISTRATION INFORMATION REQUIRED IN [SECTIONS 4 THROUGH 7]"
Insert: "Records requested and received by the department and any notification documents"
45. Page 6, line 25
Following: "the"
Strike: "registrant"
Insert: "person"
46. Page 7, line 2
Following: "through"
Strike: "16"
Insert: "14"
47. Page 7, line 8
Following: "SITE-SPECIFIC"
Strike: "registrant-specific information"
Insert: "the name and address of any person"
48. Page 7, line 10
Following: "Information." on line 9
Strike: Section 10 in its entirety.
49. Page 7, line 17
Following: "Section"
Strike: "11"
Insert: "9"
50. Page 7, line 25
Following: "through"
Strike: "16"
Insert: "14"
51. Page 8, line 1
Following: "[section"
Strike: "13"
Insert: "11"
52. Page 8, line 3
Following: "[section"
Strike: "7"
Insert: "6"
53. Page 8, line 4
Following: "Section"
Strike: "12"
Insert: "10 and renumber subsequent sections accordingly"

54. Page 8, line 4
Following: "activities."
Insert: "(1)" and change the numbers in parenthesis on lines 7, 12, 15 and 20 to letters (a), (b), (c), (d).
NOTE: See Item No. 57
55. Page 8, line 5
Following: "person"
Strike: "in whose name an insectary or site is registered"
56. Page 8, line 8
Following: "through" on line 7
Strike: "16"
Insert: "14"
57. Page 8, line 9
Strike: "(2) propagate, rear, sell, release, distribute, or collect any insects or plant pathogens for weed BIOLOGICAL control without registering with the department;"
58. Page 8, line 23
Following: "the"
Strike: "registration"
59. Page 8, line 24
Following: "3"
Insert: "and 5"
60. Page 8, line 24
Following: "."
Insert: "(2) Biological control agents registered under 80-8-201 and persons using these registered products are exempt from the provisions of [this act]."
61. Page 8, line 25
Following: "Section"
Strike: "13"
Insert: "11"
62. Page 9, line 1
Following: "[section"
Strike: "11"
Insert: "9"
63. Page 9, line 5
Following: "through"
Strike: "16"
Insert: "14"
64. Page 9, line 13
Following: "Section"
Strike: "14"
Insert: "12" and renumber remaining sections.

65. Page 9, line 17
Following: "[section"
Strike: "13"
Insert: "11"

66. Page 9, line 20
Following: "through" on line 19
Strike: "16"
Insert: "14"

67. Page 9, line 24
Following: "through"
Strike: "16"
Insert: "14"

68. Page 10, line 18
Following: "[section" on line 17
Strike: "12"
Insert: "10"

69. Page 11, line 2
Following: "through"
Strike: "16"
Insert: "14"

70. Page 11, line 4
Following: "through"
Strike: "16"
Insert: "14"

hb574.2

Senator Greg Jergerson
Capitol Station
Helena, MT 59620

SENATE AGRICULTURE

EXHIBIT NO

#2

DATE

3/18/91

BILL NO

#574

Dear Senator Jergerson:

As an introduction, since 1986 my wife and I have operated a business which conducts research and markets USDA approved insects for the biological control of exotic weeds in the United States. Some of the rangeland weeds which we work on are Canada thistle, spotted and diffuse knapweeds, musk thistle, St. Johnswort, leafy spurge, and others. Our business develops applied techniques to enhance the use of introduced, beneficial insects which attack these weeds. We work under State and Federal permits which allow us to ship these insects interstate. Enclosed is a copy of our 1991 brochure for your information.

We urge you to defeat HB 574, the "Montana Biological Agent Introduction and Distribution Weed Control Act", as introduced by Representatives Thoft and Harper.

This proposed legislation would effect *all* citizens of Montana who intend to release biological control agents (insects) against their noxious weeds. Citizens would be *required* to pay up to \$50.00 annually to register each insect release location with the Montana Department of Agriculture. Citizens would be subject to civil fines of up to \$1000.00 (and judicial fines up to \$5000.00) for *each time* they fail to register *each location* where biological control insects were released against their weeds.

Once annual approval and registration is obtained, citizens would be *required* to maintain records on insect propagation and distribution and provide these records annually to the Department of Agriculture. Citizens failing to maintain and submit such records would be subject to the above-mentioned fines.

Citizens would be *required* to obtain prior written approval before they could move insects from one location to another, even on one's own property. Furthermore, the new location would be subject to the same registration fees as mentioned above.

From a commercial collectors point of view, many of the insects which we work with fluctuate greatly from site-to-site between years. It would be impossible to precisely determine where collection sites will be prior to the narrow window of prime insect emergence. In addition, we commonly utilize dozens of insect collection locations during the field season. To be required to pay a \$50.00 fee for the registration of each site would be economically unfeasible.

Previous Montana legislation authorized the use of beneficial, weed-feeding insects as a viable weed control tactic. HB 574 will force private landowners to pay an annual fee to have biological control agents feeding on their weeds. HB 574 will repress any private citizen interest in this low cost and environmentally safe form of weed control. County, State, and Federal entities would be exempt from this legislation. Only private citizens would be effected.

If the state desires a greater degree of control over the collection and movement of biological control agents, let's work within the previously enacted legislation to bring about this improvement. Or, let's certify and license the collectors to guarantee a minimum degree of competency and integrity. Adding a burdensome and impractical tax to biological control is not the solution.

We urge you to defeat this poorly conceived legislation. If you have questions regarding our opinions of this legislation, please feel free to contact us at any time. Thank you for your support in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Noah & Leona Poritz".

Noah and Leona Poritz

Enclosure

Statement of Opposition to HB 574, the "Montana Biological Agent Introduction and Distribution Weed Control Act", as introduced by Representatives Thoft and Harper.

By:
Noah Poritz
Biological Control of Weeds
1140 Cherry Drive
Bozeman, MT 59715

406-586-5111

18 March 1991

Background

My name is Noah Poritz. I live in Bozeman. Since 1986, together with my wife Leona, we have operated a sole proprietorship engaged in the collection and distribution of USDA approved beneficial insects which attack exotic rangeland weeds. We work under State and Federal permits which allow us to ship these insects interstate.

My experience in the field of biological control of weeds includes two years with the USDA Agricultural Research Service's national research facility in California, three years with the USDA's Rangeland Insect Laboratory in Bozeman, two years with the USDA - APHIS Bozeman Bio-Control Facility, and completion of a Masters degree in Entomology specializing in biological control of leafy spurge at Montana State University. I am dedicated to the non-chemical control of our nation's rangeland weeds.

Many of our worst rangeland and pasture weeds are exotic. These plants have been inadvertently introduced into the United States without any of their evolved natural enemies. Once introduced, these weeds grow unrestrained because no insects native to North America will feed on them. Eventually we end up with millions of acres of useless, weed infested land. Examples in Montana include: five million acres of spotted knapweed, 500,000 acres of leafy spurge, and additional hundreds of thousands of acres of Canada thistle, musk thistle, toadflax, diffuse knapweed, russian knapweed, field bindweed, St. Johnswort and others.

The goal of biological control is to introduce key insects and diseases which will feed only on the target weed. These natural enemies stress the exotic weed so that more desirable vegetation can take over. Congress has mandated the U.S. Department of Agriculture to conduct research on and introduce these safe

insects and diseases which will feed on specific exotic weeds.

Once introduced and established, these natural enemies reproduce, build up in numbers, and disperse to new weed infestations. In addition, farmers, ranchers, county weed control districts, state and federal agencies all participate in biological control. They do so by releasing insects onto weed patches for which they are responsible. They obtain these insects from private collectors, and county, state and Federal weed control personnel.

The goal of all weed fighters is to get biological control agents feeding and attacking every individual weed in their infestation. Biological control is a low cost, environmentally safe, and permanent weed control method. For low value western rangelands, biological control methods are the only economically feasible weed control tactic available.

Background on HB 574

House Bill 574, as introduced by Representatives Thoft and Harper, would require all individuals who release insects and diseases onto their weeds to have the location of release approved by personnel of the Montana Department of Agriculture (MDOA), the Montana Agricultural Experiment Station (MAES), and the local county weed control district. A fifty dollar (\$50.00) annual registration fee payable to the MDOA is required for each site where insects are released.

Once a release site is approved and registered, individuals would be required to maintain records on insect propagation and distribution. Individuals would be required to submit these records annually to the MDOA.

Prior to an individual moving biological control agents from one location to another, even on ones own property, prior written approval must be obtained from MDOA, MAES, and the local county weed control district. A fifty dollar annual registration fee would be required to register the new insect release location.

Failure to comply with the approval, registration, and record keeping sections of this statute would be punishable with fines of up to \$5000.00 for each violation.

My Opinion

The ranchers and farmers of Montana cannot afford to pay an arbitrary annual tax to support another level of bureaucracy. The citizens of Montana should not have to pay for the privilege to use biological control methods on their property. They are not taxed for their use of other pest control methods. They

should not be taxed for using biological control. The public does not have the training to monitor and describe insect populations in annual reports to the MDOA.

From a commercial collectors point of view, many of the insects which we work with fluctuate greatly from site-to-site from one year to the next. It is very difficult to precisely determine where collection sites will be prior to the narrow window of prime insect emergence. In addition, we commonly utilize dozens of insect collection locations spread out over huge areas of Montana during the field season. To be required to pay a \$50.00 fee for the registration of each site would be an economic burden which would eliminate private sector activity in biological control. As it is, I currently pay to use property through bank mortgages and leases of private lands.

Ambiguous aspects of HB 574 are:

What evil is this statute designed to remedy?

What are the MDOA, MAES, and county criteria for the registration of a site?

What is the intention of the MDOA in keeping records of sites and annual reports?

What will the MDOA do with these records?

Constitutionality in Question

After consultation with my attorney, Jim McLein, unconstitutional aspects of HB 574 are:

Article 14 of the U.S. Constitution and Article 2, Section 3 of the Montana Constitution provides for citizen rights to acquire, possess and protect private property. Article 2, Section 17 of the Montana Constitution states that no person shall be deprived of life, liberty, or property without due process of law. HB 574 would allow the MDOA and the MAES to take complete control of biological control and exclude all privatization of biological control activities in Montana. MDOA and MAES could attempt to control my private collection and sale of biological control agents by denying approval of sites for which my livelihood depends. Vendettas by state employees against privatization or me personally could shut down my business.

Article 2, Section 9 of the Montana Constitution allows for the public examination of all public records. HB 574 denies the public this privilege through its provisions of confidentiality of records. Citizens have the right to examine all public records pertaining to insect release activity on the part of county, state and Federal employees. To attempt to take this right away from the public is unconstitutional.

Article 5, Section 12 of the Montana Constitution states that

legislation cannot be passed which prevents or encourages special groups. Taxing only those individuals who purposefully release insects on their property singles out these individuals in contrast to individuals who allow insects to colonize naturally.

Fiscal Irresponsibility

The cost of administration of this bill is grossly understated in the Fiscal Note accompanying HB 574. There are currently tens of thousands of private landowners who have biological control agents feeding on the weeds on their properties. Some landowners purposely released these biological control agents. Many others enjoy the benefit of natural insect dispersal and attack on their weeds. Would all these people be subject to registering their sites? In the future there will be additional tens of thousands of sites. Does the MDOA have the funds to administer the approval and registration of these sites? Where will the MAES and county weed control districts obtain the funding needed to support the evaluation of new sites? Do the taxpayers of Montana want to foot the bill of administering this statute? And, should the weed fighting public be victim of a repressive tax on biological control of their weeds?

Previous Montana legislation authorized the use of beneficial, weed-feeding insects as a viable weed control tactic. HB 574 will force private landowners to pay an annual fee to have biological control agents feeding on their weeds. HB 574 will repress any private citizen interest in this low cost and environmentally safe form of weed control.

If the state desires a greater degree of control over the collection and movement of biological control agents, let's work within the previously enacted legislation to bring about this improvement. Or, let's certify and license all professional practitioners of biological control to guarantee a minimum degree of competency and integrity. Adding a burdensome and impractical tax to biological control is not the solution.

Essentially, HB 574 represents a repressive tax on individuals who wish to engage in biological control. This tax, and the impossible record keeping it requires, would virtually shut down any private biological control activity in Montana.

My wife and I and the dozens of ranchers who we spoke with about this bill are vehemently opposed to its intent and content. Please do not allow HB 574 to get one step further.

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SENATE AGRICULTURE

EXHIBIT NO. #3

DATE 3/18/91

B# NO. #574

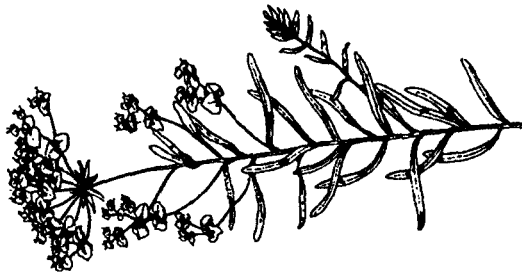
(BOOKLET)

BCW

Biological Control of Weeds
1140 Cherry Drive
Bozeman, Montana 59715

406-586-5111

Address Correction Requested



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SENATE AGRICULTURE

EXHIBIT NO. #4

DATE 3/18/91

BILL NO. #574

James R. Raznoff
515 South 12th Avenue
Bozeman, MT 59715

(406) 586-7779

March 15, 1991

Senator Greg Jergerson, Chairman
Senate Agricultural Committee
Helena, Montana

Honorable Senator Jergerson:

I am calling on you today in regard to the House Bill 574, "Montana Biological Agent Introduction and Distribution Weed Control Act". I understand this legislation appears before the Senate during the week of March 18, 1991. HB 574 requires registration, annual fees, and record-keeping with the Department of Agriculture, for all ranchers and citizens who employ biological control of weeds on their properties. The original intent, to protect State growth sites from private gathering, has been greatly exceeded with the provisions of HB 574.

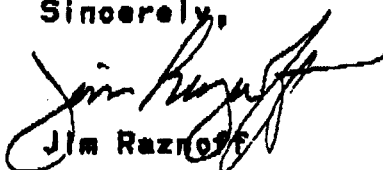
HB 574 is counterproductive to the citizens of Montana active in weed control on their own property, by imposing unnecessary registration requirements, and substantial fines for failure to register and report the existence of, intentional release, and natural distribution of beneficial weed-eating insects.

As you probably know, the use of insect agents is a beneficial, low cost, and environmentally safe form of weed control. It can be used with, or as an alternative to chemical methods of weed control. Beneficial fly and beetles are gathered from privately-owned sites during short life stages, and must be transported and released in a very timely manner to be successful.

The use of insects as a weed control tactic is not in need of legislation that discourages it. Is theft on State insect growth sites a proven problem that requires legislation that would over-regulate a beneficial activity? I believe you know better.

I encourage you to question this poorly conceived legislation, to compare its original intent to its effect as written, and to defeat it as written.

Sincerely,



Jim Raznoff

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 18 day of March, 1991.

Name: LEONA PORITZ

Address: 1140 CHERRY DR.
BOZEMAN, MT 59715

Telephone Number: 406-586-5111

Representing whom?

BIOLOGICAL CONTROL OF WEEDS

Appearing on which proposal?

HB 574

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

This bill is non-supportive of small business
& biological control in Montana.

Regulatory fees are discouraging individuals
from using this weed control tactic.

Cumbersome paperwork is being required while
excluding state, federal & county agencies --
the majority of agencies making the releases
of bio-control agents.

Vote No!

Senate Reg Comm

~~Amendments~~

GOOD AFTERNOON

MY NAME IS LEONA PORITZ AND WITH MY HUSBAND, NOAH PORITZ, WE OPERATE A COMPANY, BIOLOGICAL CONTROL OF WEEDS, IN BOZEMAN. WE COLLECT AND REDISTRIBUTE BIOLOGICAL CONTROL AGENTS IN MONTANA AND THE UNITED STATES.

I AM OPPOSED TO HB 574 FOR 2 REASONS:

- 1) IT SAYS "NO" TO BIOLOGICAL CONTROL
- AND
- 2) IT SAYS "NO" TO SMALL BUSINESSES IN MONTANA

NO TO BIO-CONTROL

BIOLOGICAL CONTROL IS AN ENVIRONMENTALLY SAFE ALTERNATIVE FOR WEED CONTROL. RANCHERS AND FARMERS ARE TIRED OF SPRAYING, TIRED OF WAITING, AND WANT TO START THEIR BIO-CONTROL PROGRAMS NOW. BIO-CONTROL TAKES TIME AND NOW IS THE TIME. THESE REGULATORY FEES PENALIZE INDIVIDUALS AND DISCOURAGE THEIR IMPLEMENTING BIO-CONTROL. "DO THESE SAME INDIVIDUALS PAY TO SPRAY THEIR LAND?"

RANCHERS AND FARMERS (MONTANANS) ARE BECOMING AWARE OF PRESERVING THEIR ENVIRONMENT; THE POTENTIAL FOR GROUND WATER CONTAMINATION IS IN THE FRONT OF EVERYONE'S MIND. THEY ARE LOOKING FOR ALTERNATIVE WEED CONTROL TACTICS FOR THEIR LAND ESPECIALLY SENSITIVE AREAS ALONG STREAMS AND RIVERS. THIS CONSCIENTIOUS ATTITUDE NEEDS TO BE REWARDED--MAYBE WE SHOULD PAY THEM \$50 FOR REGISTERING AND USING BIO-CONTROL.

BIO CONTROL IS A LONG TERM WEED CONTROL METHOD. RELEASES OF AGENTS TODAY ^{WILL} ~~CAN~~ KEEP ON WORKING FOR YEARS TO COME. AS ONE OF OUR CUSTOMERS SAID "THOSE BUGS ARE OUT THERE WORKING, EVEN WHEN I'M NOT".

NO "TO SMALL BUSINESS

AS A SMALL BUSINESS, MONTANA IS A TOUGH PLACE TO MAKE A LIVING. OURSELVES AND A HANDFUL OF OTHER FLEDGLING BUSINESSES COLLECT AND MARKET BIO-CONTROL AGENTS. IT IS A SEASONAL BUSINESS, A BIT LIKE FARMING, AND SLAPPING US WITH REGULATORY FEES AND CUMBERSOME PAPERWORK DOES NOT ENCOURAGE SMALL BUSINESS.

AS THIS LAW READS, STATE, COUNTY, AND FEDERAL AGENCIES ARE EXCLUDED LEAVING PRIVATE BUSINESS AND INDIVIDUALS TO BEAR THE BRUNT OF THIS LEGISLATION. IF THE LAW IS TRULY SINCERE IN WANTING TO MAINTAIN AN ACCURATE RECORDKEEPING OF BIO-CONTROL, THEY ARE EXCLUDING A MAJORITY OF THE PRIMARY RELEASERS OF THESE AGENTS. THE LAW CLEARLY PINPOINTS PRIVATE INDIVIDUALS IN A SOMEWHAT VINDICTIVE MANNER. I FEEL THAT SOMEONE IS OUT TO MAKE BY BUSINESS MORE DIFFICULT TO OPERATE.

WE WANT TO CONTINUE IN OUR DEDICATED COURSE OF PROVIDING BENEFICIAL INSECTS TO INDIVIDUALS DESIRING THESE INSECTS. WE HAVE ABIDED BY FEDERAL AND STATE REGULATIONS OVER THE PAST YEARS AND WILL CONTINUE TO DO SO. HELP US ACCOMPLISH OUR GOALS AS A SMALL BUSINESS.

SAY "YES" TO SMALL BUSINESS IN MONTANA

SAY "YES" TO BIOLOGICAL CONTROL IN MONTANA

BY VOTING AGAINST HB 574 TODAY.

THANK YOU

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 18 day of March, 1991.

Name: DAVE PICKETT

Address: 610 GREENACRES DRIVE
BUTTE MT 59701

Telephone Number: 494-5059

Representing whom?

Butte Weed Board

Appearing on which proposal?

HB 574

Do you: Support? _____ Amend? _____ Oppose? ☒

Comments:

Please send me a copy of the revised
bill based on amendments offered to
Senate Ag Committee this date

Thank you
Dick Pickett

DATE 3/18/91

COMMITTEE ON Agriculture

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)