

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

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

**Call to Order:** By Bob Pipinich, Chair, on January 19, 1993, at 1:00 p.m.

#### **ROLL CALL**

##### **Members Present:**

Sen. Bob Pipinich, Chair (D)  
Sen. Gary Forrester, Vice Chair (D)  
Sen. Tom Beck (R)  
Sen. Don Bianchi (D)  
Sen. Chris Christiaens (D)  
Sen. Bruce Crippen (R)  
Sen. Gerry Devlin (R)  
Sen. Judy Jacobson (D)  
Sen. Terry Klampe (D)  
Sen. Kenneth Mesaros (R)  
Sen. Dennis Nathe (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Andrea Merrill, Legislative Council  
Kathy Collins, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: SB 81  
Executive Action: SB 27

#### **EXECUTIVE ACTION ON SB 27**

##### **Discussion:**

A memorandum from Senator Ed Kennedy, Senate District 3, requesting that SB 27 be tabled was read for the Committee (Exhibit #1).

##### **Motion/Vote:**

Senator Christiaens MOVED to TABLE SB 27. MOTION CARRIED UNANIMOUSLY.

HEARING ON SB 81Opening Statement by Sponsor:

Senator Bruce Crippen, Senate District 45, Billings, presented an update on the issue of commercial crayfish in from the Department of Fish, Wildlife & Parks (FWP), Fisheries Division (Exhibit #2). Senator Crippen said the Department doesn't have enough information on this issue to determine whether the commercial taking of crayfish negatively affects crayfish populations. He also stated this activity could destroy the food chain, and the increase of the commercial taking of crayfish would likely increase the level of social conflict. For these reasons, Senator Crippen urged the Committee's favorable consideration of SB 81.

Proponents' Testimony:

Tom Collins, Missoula, spoke as a concerned citizen, "hoping to preserve some of Montana's most valuable resources." Mr. Collins said there is a major concern over the markings people use to mark their crayfish traps. He stated the commercial crayfish harvesters are experiencing personal gain to the detriment of the other Montanans who have enjoyed the recreational qualities of Montana's waters. Mr. Collins stated the fishermen are harvesting part of the food chain, and this action could ultimately destroy Montana's priceless fishery. Since no research has been done to determine the long-range effects of this activity, Mr. Collins urged the Committee's favorable consideration of SB 81. Mr. Collins provided the Committee with letters from people supporting SB 81 (Exhibits #3, #4, #5, #6).

H.W. Bockemuehl, Missoula, stated because of the interference of the crayfish pots with other water-sport activities, he supports SB 81.

Jim Patten, Florence, presented the Committee with a petition signed by interested citizens in support of SB 81 (Exhibit #7).

Mitzi Schwab, representing the Department of Health, spoke from a prepared statement in support of SB 81 (Exhibit #7).

Jim Richard, representing the Montana Wildlife Federation, said because of the conflict between commercial harvest of a resource and sport fishing, he supported SB 81.

Stan Bradshaw, representing Montana Trout Unlimited, stated one of the compelling points to consider is that the problem being discussed is not of a hypothetical nature. Mr. Bradshaw said if the processing plant being discussed were to become a reality, the level of harvest of crayfish in Western Montana is very likely to rise, thereby increasing the conflicts already being experienced between sportspersons and the commercial crayfish harvesters. Mr. Bradshaw stated Montana is blessed with the best

self-sustaining wild trout fishery in the lower 48 states; what we have here in Montana is a unique resource. He stated crayfishing could affect the trout fisheries, per se, although frankly, he said there was no scientific evidence to prove that one way or another. However, on the limited scale that crayfishing is being done now, it can be disruptive to the trout fishery that people come to this state to enjoy and to enjoy the rivers that go with it. Mr. Bradshaw urged the Committee to help maintain that amenity by passing SB 81.

Janet Ellis, representing the Montana Audubon Legislative Fund, said she supports SB 81 because she opposes the commercialization of our wildlife, particularly species that can't be monitored, to keep track of how the populations are going to be affected. Ms. Ellis stated this is another pull on the money that goes towards our wildlife programs, adding that the license fees don't begin to cover this program. Ms. Ellis said passage of SB 81 is important to keep wildlife programs funded.

Robin Cunningham, representing the Fishing Outfitter's Association of Montana, stated he would rather see crayfish benefit trout mouths rather than gourmets.

**Opponents' Testimony:**

None.

**Informational Testimony:**

Pat Graham, Department of FWP, spoke from prepared informational testimony (Exhibit #8).

Mike Murphy, representing the Montana Department of Agriculture, stated there was some concern about the wording in the new section potentially prohibiting the commercial harvesting of crayfish in public or private waters. He stated he would not want this legislation to prohibit the harvesting of crayfish from private waters.

**Questions From Committee Members and Responses:**

Senator Nathe asked Mitzi Schwab if she meant to imply that the copper concentrations and toxic metal concentrations in the fishery of the lower Clark Fork should be a concern. Ms. Schwab replied at this time the Department of Health is not looking at that.

Senator Nathe stated when it comes to mercury, it always follows gold in the water. He said Montana has always had gold in its streams and that Montanans have always eaten the fish from those streams. Senator Nathe hoped this fact would be pointed out the EPA before they make any regulations concerning the fisheries of Montana. Ms. Schwab made the point that a lot depends on consumption rates and the personal health of the people who are

involved--it's a complicated set of calculations.

Senator Bianchi asked Andrea Merrill if SB 81 covers all the waters of Montana--private as well as public. Ms. Merrill replied that a lot of the language in state law says "waters of the state," and there are regulations covering what happens in the "waters of the state" under the Department's laws and rules. Ms. Merrill went on to say she did not feel there would be a problem because the Department and the state have universal powers to regulate things in all the waters of the state that drain into public waters. Ms. Merrill stated private fish pond activities are defined and covered in a different section of the law.

Senator Bianchi asked Bob Lane, attorney for FWP, if he had any input in this matter. Mr. Lane replied there could be some difficulty in the interpretation of what "waters of the state" means. He stated if what was meant was "public waters," the language should be stated so.

Senator Pipinich asked Bob Lane if someone along the Clark Fork wanted to put in his own tanks to raise crayfish, would FWP have control over them. Mr. Lane replied yes, adding FWP's regulatory authority is fairly broad.

Senator Bianchi asked Senator Crippen if his intent for SB 81 was for public or private waters. Senator Crippen stated it is his impression that when you refer to the waters of the state, public waters are implied. He said if the Committee wanted the language to specifically state "public waters," it was fine. It should be kept in mind, however, that the Department has the authority to regulate this type of activity on private waters as well.

Senator Bianchi asked Senator Crippen if he would object if "public waters" was inserted into SB 81. Senator Crippen replied he would not object, as long as there were no conflicts with regular penalty sections in Title 87.

Senator Bianchi, referring to a comment made earlier in the hearing, asked Pat Graham what "potential commercial operations" were being talked about and if Mr. Graham had heard anything about the proposed processing plant in Missoula. Mr. Graham stated he had been told that the processing plant was being discussed, but he had not heard anything else on the matter. Tom Collins, commenting on this issue, stated he had talked to people interested in financing a processing plant in Missoula.

Senator Pipinich asked Tom Collins if he had heard that there is definitely an interest in building a processing plant in Missoula. Mr. Collins replied he had.

Senator Beck asked Pat Graham how much the crayfish being harvested sell for. Mr. Graham stated the crayfish have a fairly high value--selling for \$12-\$25 per pound.

Closing by Sponsor:

Senator Crippen stated there is no concrete evidence that the harvesting of crayfish will destroy the food chain; however, there is no evidence to show it will not. If the situation were to be left as it is, the Department would be faced with the situation, where having any lack of evidence to deny a permit, to allow a commercial activity that may, in fact, be detrimental to a commercial activity already in place. Senator Crippen stated there is a delicate balance in the fisheries and the ecosystems of Montana's waters; thus, he believes the best way to handle this situation is to prohibit the commercial taking of the crayfish.

ADJOURNMENT

Adjournment: 2:00 p.m.

  
SENATOR BOB PIPINICH, Chair

  
KATHY COLLINS, Secretary

BP/kc

# ROLL CALL

SENATE COMMITTEE Fish & Game DATE 1-19-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Pipinich	✓		
Senator Forrester	✓		
Senator Klampe	✓		
Senator Nathe	✓		
Senator Devlin	✓		
Senator Mesaros	✓		
Senator Beck	✓		
Senator Crippen	✓		
Senator Christigens	✓		
Senator Bianchi	✓		
Senator Jacobson	✓		



# MONTANA STATE SENATE

SENATOR JOHN "ED" KENNEDY, JR.  
SENATE DISTRICT 3  
5567 MONTANA HWY. 35  
KALISPELL, MONTANA 59901

COMMITTEES:  
BUSINESS AND INDUSTRY  
VICE CHAIRMAN  
NATURAL RESOURCES  
LOCAL GOVERNMENT

## MEMORANDUM

DATE: January 19, 1993

TO: Chairman Pipinich  
Senate Fish and Game Committee

FROM: John "Ed" Kennedy, Jr.

RE: Senate Bill 27

SENATE FISH AND GAME

COMMITTEE NO. 1

DATE 1-19-93

BILL NO. SB 27

After discussions with the Montana Department of Fish, Wildlife and Parks (DFWP), I have decided to ask this Committee to Table Senate Bill 27.

The DFWP would prefer, over the next two years, to develop a recommended management plan for the Sun River Game Preserve. This Plan would hopefully consider all factions, both human and animal. In the 1995 Legislative session, legislation would be proposed to transfer the management of the Preserve to the Montana Department of Fish, Wildlife and Parks.

I concur with the Department's request and respectfully request that you Table this bill and cancel the Hearing set for January 26, 1993.

**Montana Department  
of  
Fish, Wildlife & Parks**



SENATE FISH AND GAME  
BILL NO. 2  
DATE 1-19-93  
BILL NO. SB 81

1420 East Sixth Avenue  
Helena, MT 59620  
January 12, 1993

SENATE FISH AND GAME

SENATE FISH AND GAME  
BILL NO. 2  
DATE 1/19/93  
BILL NO. SB 81

Senator Bruce Crippen  
Capitol Station  
Helena, MT 59620

Dear Senator Crippen:

Director Graham asked me to supply you with an update on the commercial crayfish issue. I have compiled a status report and also included a copy of the current commercial crayfish regulations and several related crayfish reports.

I would be happy to meet with you to discuss this further if you wish. You may contact me at 444-2449 or at home at 442-2103.

Sincerely,

Larry G. Peterman  
Administrator  
Fisheries Division

REF: DL693.1  
C: Pat Graham



January 7, 1993

Status of Commercial Crayfishing in Montana  
Prepared by Montana Department of Fish, Wildlife and Parks

Prior to 1989, the taking and sale of crayfish for any purpose was not regulated by the Department of Fish, Wildlife and Parks. It is our understanding that some small, intermittent commercial operations existed prior to 1989.

In 1987, the market demand for crayfish increased dramatically due to a disease-induced collapse of crayfish populations in Europe. (Crayfish are used extensively in Europe. Sweden, alone, imports up to one million pounds.) Responding to the expanded market, crayfishermen across the nation expanded their fishing operations. Crayfishermen in northwest Montana began harvesting crayfish in the reservoirs of the lower Clark Fork River and exploring new waters including Lake Mary Ronan.

During the summer of 1987, the Department of Fish, Wildlife and Parks became aware of public concern over the commercial crayfish activity. Because the department did not have specific authority to regulate commercial crayfish harvest, an administrative rule-making process was initiated to designate crayfish as a non-game species in need of management (authorized under the Montana Nongame and Endangered Species Act). Public hearings were held in three locations. Public sentiment was unanimous in support of

designating crayfish in need of management. The designation was officially adopted on January 3, 1989. Subsequently the 1989 legislature enacted SB 294 which provided for the regulation of commercial taking of aquatic fish food organisms and required the department to adopt rules and regulate the commercial harvest of crayfish (87-4-609, MCA).

In 1989, the department invited a citizens committee to assist in formulating annual rules to govern the harvest of crayfish. The committee consisted of commercial fishermen, representatives of sportfishing organizations, a recreational organization, commercial power utility, and the University of Montana. A final set of rules were agreed upon and presented to the Montana Fish and Game Commission for tentative approval. After a 30 day comment period the final rules were adopted in 1990.

In preparation of the rules, the department utilized the following information:

1. A reconnaissance of crayfish populations in western Montana - a 24 page report prepared by Dr. Andrew Sheldon, University of Montana. February, 1989.

2. A collection of the commercial crayfish rules used by neighboring states of Idaho, Washington, Oregon, California and Wyoming.

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3. A review of current scientific literature on crayfish populations and the effect of exploitation on crayfish populations.

4. A crayfish inventory of six bodies of water in Montana, prepared under contract by OEA Research for the Department of Fish, Wildlife and Parks.

In reviewing the above information and through direct contact with fisheries officials in other states, our department felt confident that the annual rules would protect crayfish populations. We also recognize the important need to monitor harvests and make adjustments in the annual regulations as new information becomes available.

Commercial crayfishing was very limited in 1990. One operator was permitted to fish the Clark Fork River from Milltown Dam to Plains. In accordance with our rules, his traps were marked with visible buoys. Anglers and recreational boaters were annoyed by the markers and protested to the department. The commercial fisherman also reported loss of traps due to vandalism.

After reviewing the protests, our department recommended traps not be marked with visible buoys, thus removing the aesthetic and vandalism problems. The Montana Fish and Game Commission approved these changes in the 1991 annual rules. Subsequent to the change, the commercial crayfisherman on the Clark Fork sprayed orange paint on the streamside rocks to mark his traps and caused considerable

controversy.

Three commercial crayfish permits were issued in 1991 for the following waters: Clearwater River and Alva, Inez, Seeley and Salmon Lakes; Missouri River and impoundments from Trident to Great Falls; and Clark Fork River and impoundments from Milltown to Idaho border. Exploratory fishing was conducted on the Clearwater River and Missouri River but no harvests were reported. Only limited fishing was conducted on the Clark Fork with a reported harvest of 3,150 lbs.

We did not receive any applications for commercial crayfish permits in 1992.

We have been told that Mr. Tom Aichlmayer, Missoula, has sought support from a small business incubator group in Missoula to develop a central crayfish processing plant. The plant would purchase crayfish from in-state and out-of-state sources. At present fishermen must deliver their catch live to the west coast. We have not received any additional information about this for several months.

We can find no evidence in the scientific literature that commercial crayfish harvest negatively impacts crayfish populations. The department has very few studies on Montana rivers to rely on and little ability or dollars to conduct such investigations. The commercial fishing license fees for

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crayfishing do not come near covering the administrative costs of the program. This issue has been raised several times by anglers.

There has been considerable social conflict associated with several commercial crayfish operations on the Clark Fork and Clearwater rivers. Increased commercial fishing activity will likely increase the level of social conflict.

REF: DL592.7

## 1993 COMMERCIAL CRAYFISHING REGULATIONS

### MONTANA FISH AND GAME COMMISSION

This an annual rule to supplement ARM Rules 12.7.101-105.

#### 1. Definitions

- 1.1 Commercial Fishing: Fishing for, taking or transporting crayfish for the purpose of selling, bartering, exchanging, offering, or exposing for sale.
- 1.2 Commercial Species: Only the following crayfish may be taken for commercial purposes: Species of the genera Pacifasticus and Orconectes.

#### 2. Licenses, Tags, and Permits

- 2.1 Persons engaged in the commercial taking and sale of crayfish will be required to possess a valid Class B commercial fishing license as well as post a \$1,000 corporate surety bond with MDFWP before commencing operations on any water. Persons hired to work for a commercial operator will not be required to possess a Class B license. The license will be valid from January 1, 1992 to December 31, 1992 and the licensee must renew the license and bond annually.
- 2.2 Each licensed commercial crayfisherman will be issued a free permit for each water body he wishes to operate on. A permit may be revoked after the period of one year if the operator does not capture and commercially sell crayfish. The number of permits issued for any water will be subject to the conditions under Section 9. In the event there are more applicants than permits available for a waterbody, the permit will be issued under the criteria in ARM Rule 12.7.102.
- 2.3 Each commercial operator will be required to mark all crayfish traps, crab rings, and live cars with commercial gear tags clearly stamped with name, address, and permit number. No person may set, operate, lift, or fish commercial gear unless such gear has valid commercial gear tags attached.
- 2.4 Approved commercial gear may be set, operated, lifted, or fished only by the holder of a valid commercial crayfishing license to which the gear is registered or the license holder's employees.
- 2.5 Employees of a licensed operator must have a copy of the operator's permit in their immediate possession.
- 2.6 MDFWP is authorized to suspend or revoke any commercial license or permit for violation of the MDFWP statutes or these regulations by the licensee or persons acting under the licensee's direction and control.

#### 3. Season

- 3.1 Commercial Crayfishing: Year-round.

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4. Size Restrictions

- 4.1 Crayfish of the genus Pacifasticus measuring less than 3 5/8 inches (92 mm) or of the genus Orconectes measuring less than 3 inches (76 mm) in length from the tip of the nose (acumen) to the tip of the tail (telson), measured in a straight line ventral side up, may not be taken commercially.
- 4.2 Crayfish shall be sorted and any undersize crayfish returned to the water at the place of capture immediately following the emptying of any single trap or trap line. An allowable sorting error percentage of undersized crayfish, not to exceed 5 percent shall be allowed in any load or lot.

To determine the percentage of crayfish which are less than the minimum size limit, samples shall be taken from various portions of the load or lot and shall be measured and counted. The mean of the combined counts of all samples taken shall be used to determine the percentage of undersized crayfish in the load or lot. Samples shall be taken in containers of not less than one gallon size approximately full of crayfish. At least three such samples shall be taken from any load or lot.

5. Commercial Gear and Method of Take

- 5.1 Crayfish may be commercially harvested only with crayfish or minnow traps, crab rings, by hand, with hook and line, or with experimental gear as approved by MDFWP.
- 5.2 Crayfish or minnow traps may not measure more than 3 feet in any diameter.
- 5.3 All crayfish and minnow traps must be lifted and emptied of catch at least once every seventy-two (72) hours except during periods of weather that pose a threat to human life, health, or safety.
- 5.4 Untagged gear or gear left unattended more than ninety-six (96) hours shall be considered unlawful or abandoned and may be confiscated by MDFWP.
- 5.5 Before any gear such as traps, crab rings, live cages, and attached ropes can be transferred to any water, they must be suitably disinfected as specified by MDFWP.
- 5.6 A commercial operator may use up to 500 crayfish traps on any one body of water unless otherwise specified in the permit for that water body.

6. Release of Non-Target Fish and Crayfish

- 6.1 Any person capturing with commercial gear any species of fish or crayfish that are not a commercial species or listed on a special permit shall immediately release the fish or crayfish unharmed back to the water. Any dead non-commercial fish or crayfish shall be cut and sunk immediately.
- 6.2 Any person capturing female crayfish carrying eggs or young shall release those crayfish unharmed back to the water at the place of capture immediately following the emptying of any trap or trap line.

7. Bait

- 7.1 Any non-game fish legally obtained within the state may be used dead as bait. Other fish species may be used if specifically approved by the Department.
- 7.2 The transport of live fish between any waters is illegal.
- 7.3 Bait fish obtained from out-of-state must meet the requirements of state fish importation laws and be accompanied by an import permit.
- 7.4 Bait from crayfish traps may not be discarded into any water of the state.

8. Possession and Transportation of Crayfish

- 8.1 Live crayfish may be held only in the waters where harvested, in ponds for which a private pond permit listing crayfish has been issued or in specified commercial facilities. Live crayfish may not be introduced into any other waters of the state without a written permit from the Department.
- 8.2 Commercial crayfishermen may possess and transport live commercial crayfish only between the water areas where harvested and the point of sale, holding, or processing.

9. Commercial Fishing Areas

- 9.1 Only one permit may be issued for each water body of the state except as listed in 9.2, 9.3, and 11.1.
- 9.2 Additional Permits
  - A. Clark Fork River and impoundments from the mouth of the Thompson River to the Idaho border--2 permits. A third permit may be issued at the discretion of the Department.
  - B. MDFWP may issue additional permits for other waters when requested and when additional permits will not affect the aquatic resource or recreational use of the water.
- 9.3 MDFWP may close any waters at any time after demonstrating the need to protect the aquatic resource, recreational use, or to protect human health and safety.

The following waters are closed to commercial crayfishing:

Region 1:

Echo Lake -- Flathead County; Lake Mary Ronan -- Lake County

10. Restrictions

- 10.1 No commercial gear, including live cages, may be located within 100 yards of any public boat ramp or dock.
- 10.2 No commercial gear, boats, or other equipment or materials used in conjunction with a commercial fishing operation may be stored or left unattended at a MDFWP public access site for more than 12 hours without obtaining a permit from MDFWP.

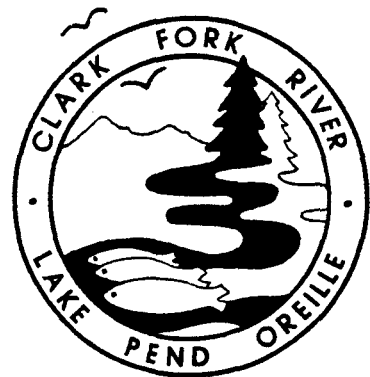
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11. Commercial Bait-Crayfish Operations

- 11.1 The number of commercial bait-crayfish operations permitted on any one water will be determined by MDFWP and will be in addition to any commercial crayfish permits issued.
- 11.2 Commercial operators capturing crayfish for sale as bait must observe the requirements of all the sections of these annual rules except Section 4. There are no size restrictions on crayfish taken for bait.
- 11.3 Crayfish may only be sold dead for use as bait.
- 11.4 No more than 2,000 crayfish may be taken from any water by any one operator annually unless otherwise specified by MDFWP.

crayfish 10/92



## Clark Fork - Pend Oreille Coalition

P.O. Box 7593 • Missoula MT 59807 • (406) 542-0539  
P.O. Box 1096 • Sandpoint ID 83864 • (208) 263-0347

19 January 1993

Sen. Bob Pipinich, Chairman  
Senate Fish and Game Committee  
Montana State Senate  
Capitol Station  
Helena, MT 59620

SENATE FISH AND GAME  
FILE NO. 3  
DATE 1-19-93  
BILL NO. SB 81

Dear Sen. Pipinich:

The Clark Fork - Pend Oreille Coalition urges the Fish and Game committee to adopt S.B. 81. Sen. Crippen's bill to prohibit the taking of crayfish for commercial distribution. The Coalition is a regional conservation group comprised of more than 1,300 individuals and 100 businesses and groups. Our membership includes a large group of anglers and other recreationists that use the Clark Fork River.

We don't oppose new business ventures unless we've carefully weighed their effects on the economy as well as water quality and fish. We have done that with the commercial taking of crayfish, and we oppose it for compelling reasons:

1.) The State has a trust obligation to manage fish and wildlife for the benefit of all Montanans. We don't believe a commercial venture that benefits a few at the possible expense of reduced resources for all Montanans is appropriate. Yet that is the case with commercial taking of crayfish.

2.) The State has no policy defining the extent of its obligation to all the people out there who have ideas on how to make money from commercializing Montana's fish and wildlife. Apparently anyone can come into Fish, Wildlife and Parks with a proposal to make money off of fish or wildlife, and the department -- provided a specific law does not prohibit the activity -- has to give the person serious consideration. Yet the department has no charge to promote or even manage fish and wildlife for commercial use. Its charge is to manage fish and wildlife for all Montanans, primarily the sporting public that funds it.

Basin-wide support for an outstanding resource

3.) The cost of regulating commercial taking of crayfish, despite a permit that costs the operator \$200, is largely borne by anglers and hunters. The costs of processing a permit with associated environmental analysis, monitoring crayfish populations and permit enforcement are higher than \$200.

Therefore, license dollars from anglers and hunters are now paying for administration of a commercial venture that benefits few. Currently, because Fish, Wildlife and Parks has few dollars available, monitoring of commercial taking of crayfish is sparse and analysis on its effects on trout and other prey species such as eagles, otters and herons is nonexistent.

4.) Qualitative biological information on the effects commercial taking of crayfish will have on Montana's aquatic communities is not available.

Detailed information has not been collected on the role crayfish have in the foodchains of the state's rivers and lakes, especially the effect reducing their numbers will have on sport fish such as trout or fish-eating game birds such as mergansers.

5.) The State has determined that there are two species of crayfish in the Clark Fork river. One is a native species and the other introduced. The state's size limits for commercial taking of crayfish favors the taking of the larger species, the natives. No study has been done to see if commercial taking of crayfish, which has been occurring in the river with an expansion proposed, will change crayfish populations such that the native species is pushed out in favor of the non-native.

Currently, the state's regulation of commercial taking of crayfish is not based on biological research, such as is the case with regulation of fishing and hunting. In the Clark Fork watershed, permits have been issued based on anecdotal observations that "there are a lot of crayfish." State regulations allow for each permit holder to collect essentially an unlimited number of large crayfish.

If the state doesn't prohibit commercial taking of crayfish, and similar ventures, it must do four things:

- a.) adopt a specific policy, with public participation, on the role commercial ventures have in Montana's fish and wildlife picture.
- b.) base all commercial taking of fish and wildlife on peer-reviewed biological research.
- c.) demonstrate that the commercial interest is paying 100 percent of the costs to the state of permit administration, environmental analysis and enforcement.

d.) develop a regular, biologically based program that monitors population trends for species being commercialized.

You should know that many of our scientific and management concerns were examined by Andy Sheldon, a University of Montana biologist, in a report he prepared for the Department of Fish, Wildlife and Parks in 1988. Most of his recommendations for crayfish management have not been heeded, presumably because the department does not have the money to carry them out. On the other hand, they would be unnecessary if there was no commercial fishery.

Thanks for your time and please support S.B. 81.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Farling".

Bruce Farling  
Conservation Director

EXHIBIT 3  
DATE 1-19-93  
SB 81



FILE NO.	4
DATE	1-19-93
BILL NO.	SB 81

# Craighead Wildlife-Wildlands Institute

5200 Upper Miller Creek Road • Missoula, Montana 59803 • (406) 251-3867

To: The Senate Fish and Game Committee  
Montana Department of Fish, Wildlife and Parks  
Helena, Montana

From: John J. Craighead  
Chairman: Craighead Wildlife-Wildlands Institute

Date: 18 January 1993

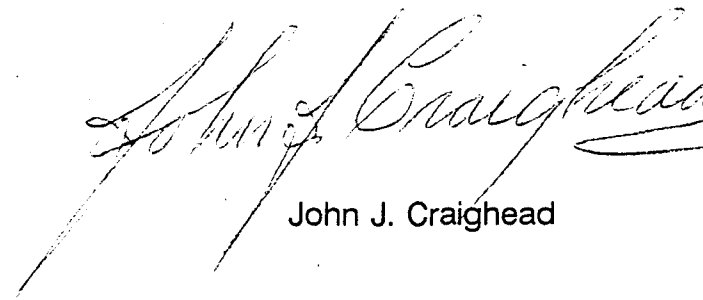
Subject: The Taking of Crayfish For Sale or Commercial Distribution

Gentlemen:

I am the founder of the Wildlife-Wildlands Institute, am currently Chairman of the Board, and was formerly Head of the Montana Cooperative Wildlife Research Unit and faculty member of the University of Montana's Department of Zoology. I have spent the past 40 years in the State pursuing my profession of wildlife biology.

I have serious reservations concerning the commercialization of any of the aquatic organisms that form the food base for the game and nongame fisheries of our State. I was particularly concerned when the legislature enacted a law permitting the sale and commercial distribution of crayfish. I am delighted to see that a bill is now being introduced in the 53rd legislature to amend Section 87-4-609, MCA of that law.

Our state has one of the finest fresh water fisheries in North America, and it has been well-managed by the Department, based on extensive research. Because of the complexity and diversity of aquatic ecosystems, I urge you to repeal the legislation permitting commercial taking of crayfish until research justifies the issuing of permits for that purpose. The biological knowledge essential for evaluating the pros and cons of commercial taking does not now exist. Harvesting against an unknown resource is poor management and not in keeping with the excellent goals and accomplishments of the Department's fisheries program.



John J. Craighead

January 17, 1993

To the Chairman  
Committee on Fish and Wildlife  
Montana State Senate  
Helena, MT.

SENATE FISH AND GAME  
EXHIBIT NO. 5  
DATE 1-19-93  
BILL NO. SB 81

Dear Senators:

I write you in support of the proposed bill to limit commercial taking of Crayfish in Montana's trout waters.

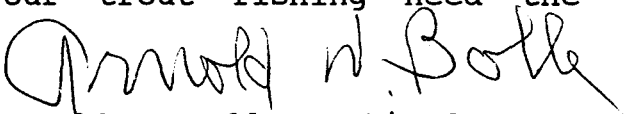
While I can always have sympathy for someone trying to make a living, I feel uncomfortable with any action by the Department of Fish, Wildlife and Parks which might permit the expansion of this program which might encourage establishment of a processing plant which would make it increasingly difficult to change this activity if future conditions or knowledge made that necessary.

I have tried to learn from fellow scientists just what place crayfish have in the life cycles of our trout streams but find that knowledge is presently insufficient to know. We don't know whether taking crayfish is bad, good or indifferent to trout. But ignorance does not justify action. Ignorance calls for caution while we push vigorously to learn.

At present trout fishermen (and women) are mainly concerned with the nuisance they present. It is also a shock to run into these traps on our pristine rivers where much of our enjoyment comes from the natural conditions of these streams. We just don't see any good reason for their presence. We also harbor a strong feeling that ~~cray~~fish have an important place in the native food chain. We want to know that. All citizens need to know that.

We generally take pride in the quality of our state department officials. They are tops. But they too can make mistakes. We believe that the condition of our native trout streams is too valuable a resource to put at risk. Our Montana citizens as well as the many visitors attracted to our trout fishing need the protection of this bill. Thank you.

Sincerely,

  
Arnold W. Bolle, Retired Dean,  
UM School of Forestry  
Chair, Forever Wild Endowment  
Board Member, Wilderness Society.  
and 6 other citizen groups.

West Slope Chapter Trout Unlimited  
Steve Schombel, President  
2200 Applewood Ln.  
Missoula, Mt. 59801  
January 15, 1992

Senator Bob Pipinich, Chairman  
Senate Fish and Game Committee  
Montana State Senate  
Capitol Station  
Helena, MT. 59620

SENATE FISH AND GAME

FILE NO. 6  
DATE 1-19-93  
BILL NO. SB 81

Dear Senator Pipinich:

The West Slope Chapter of Trout Unlimited would like to see passage of S.B. 81, Senator Crippen's bill prohibiting the commercial harvest of crayfish. Trout Unlimited stands for catch and release fishing and conservation of our nation's coldwater resources. Certainly commercial harvesting does not mesh well with this philosophy. We do not seek to stop all such activities overnight; instead we try, through education and some lobbying, to move the public toward this end. As each year passes we become more and more aware of the delicate balance our State's streams and rivers exist in. Many outside influences, both natural such as the current drought and extreme cold and ice formation, and man made such as mining, logging and loss of recruitment tributaries, have placed great stress on our aquatic environment. We are very uncomfortable with the possibility of a new industry being formed which potentially could lower the population of one important link in the food chain. Not only trout but many other forms of wildlife eat these crayfish.

Other chapter members have expressed opposition to commercial harvesting in the fear that it will interfere with existing recreational uses of our waterways, from an aesthetic standpoint if nothing else. So far there have been very few reported instances of commercial crayfish harvesting creating problems with traditional fishermen; however a more widespread industry undoubtedly would make these conflicts more common.

Lastly, we realize that the Department of Fish, Wildlife and Parks has a very limited budget and we do not want to see sportspeople's dollars spent studying and monitoring an activity that will benefit only a few.

Thank you,

*Steve Schombel*

Steve Schombel

copy of comments mailed 1/15/1993

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Testimony Concerning Senate Bill 81  
Before the Senate Fish and Game Committee  
January 19, 1993

SENATE FISH AND GAME

EXHIBIT NO. 7

DATE 1-19-93

BILL NO. SB 81

Chairman Pipinich and Committee Members:

The Department of Health and Environmental Sciences (DHES) supports the intent of SB 81 to prohibit the taking of crayfish for sale or commercial distribution. There are several public health reasons for supporting this bill.

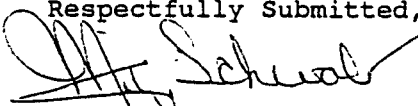
Commercial fishing permits for crayfish issued by the Department of Fish, Wildlife, and Parks (FWP) in 1991 included areas of the Clarks Fork River and Seeley Lake. Due to crayfish feeding habits, an evaluation of the possibility of heavy metal or pesticide concentrations exceeding recommended toxic substance residual levels needs to be done. The only evaluation for toxic substance levels in crayfish by FWP was done in 1985 on copper (Cu) concentrations of the crayfish exoskeletons. Cu exoskeleton concentrations cannot be correlated with Cu concentration in the edible flesh. No sample data is available for either heavy metal or pesticide residual levels from edible flesh of crayfish taken from previously authorized crayfish harvesting areas.

DHES is also concerned about the lack of a commercial fish sanitary inspection program in Montana. Commercial fishing permits issued through FWP are concerned only with the numbers and species of fish removed from specific waters. The commercial fishing permits issued through FWP do not cover sanitary handling procedures of the harvesting, transportation, or storage procedures of crayfish from the source through to either wholesale marketing or direct retail sale.

DHES was notified in 1991 that Montana crayfish taken from the Clarks Fork River were sold in some western Montana restaurants and retailers. Administrative rules, adopted under the authority of 50-50, MCA, for Montana food purveying establishments require that food sold be from an inspected, approved source and at the time of sale be safe for human consumption. Also, Montana crayfish were wholesale marketed on the west coast, becoming subject to the regulatory authority of the U.S. Food and Drug Administration (FDA). The FDA was unable to procure any sampling of the crayfish offered for sale or verify existence of a minimum sanitary procedures program by the permit holders.

Until sufficient resources are procured to assure no reasonable public health risk to consumers from the consumption of Montana crayfish flesh and the implementation of a commercial fishing industry sanitary inspection program, caution should be exercised. The DHES requests the committee to favorably consider this bill. A "do pass" committee report would be appreciated. Thank you.

Respectfully Submitted,

  
Mitzi Schwab, Chief  
Food and Consumer Safety Bureau  
Telephone: 444-2408



## TO WHOM IT MAY CONCERN:

The undersigned hereby protest the commercial taking of crayfish in Western Montana rivers and ask that the licensing of such activities be terminated for the following reasons:

1. The long term effect upon numbers of crayfish and the possible reduction of available food for sport fish in Western Montana has not been adequately investigated.
2. The trap floats are unsightly and offensive to other users of the river.
3. Traps and floats, particularly when set in holes, substantially interfere with sport fishing.
4. Enforcement of FWP regulations for the taking of crayfish diverts both funds and effort from the performance of FWP's more important public duties. Funds provided by sport fishermen should not be used to support commercial activities.

NAME

ADDRESS

Kevin Mertine

Ken Whaling

Melvin Freymark

Thomas L. Elmer

Lisa Ferland

Eugene Henry Rumm

Robb Wood

Annusata Dine

Stevensville, MT

306 S. 3rd W #3

MSLA, MT 59801

1522 Sherwood / MSLA, MT 59802

3708 Todd Ave. / MSLA 59802

Box 7773 - MSLA 59807

EXHIBIT 7

DATE 1-19-93

SB 81

This document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

SENATE FISH AND GAME  
LEGISL. NO. 8  
DATE 1-19-93  
BILL NO. SB 81

SB 81  
January 19, 1993

**Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks  
before the Senate Fish and Game Committee**

The Department of Fish Wildlife and Parks is neither an opponent nor a proponent for this proposed legislation. We offer this testimony as information to assist the legislature in understanding the issue.

Commercial crayfishing first became an issue in Montana in 1987. Responding to a new market in Europe, a few individuals in northwestern Montana began to harvest crayfish in the lower Clark Fork River and some surrounding waters. The harvested animals were transported to the west coast where they were sold at relatively high prices.

Many individuals contacted the Montana Department of Fish, Wildlife and Parks to express concern that the harvest would be detrimental to the populations and to fish and wildlife that utilize crayfish for food; others objected to the commercialization of public resources.

Because the department did not have specific authority to regulate commercial harvest, administrative rules were adopted in 1989 to designate the crayfish as a species in need of management. Subsequently in 1989, the legislature enacted SB 294 which provided for regulation of commercial taking of aquatic fish food organisms

and required the department to adopt rules to regulate the harvest of crayfish.

Commercial crayfishing regulations were adopted by the department after consultation with a citizen's committee and with other states where commercial crayfishing had taken place for many years. We also reviewed some scientific studies that had evaluated the impacts of harvest on crayfish populations. The annual rules adopted for commercial crayfishing regulate the number and distribution of permittees, the type of gear, the sex and size of harvestable animals and require permittees to report the quantity of their catch. We believe the regulations provide protection against overharvest of crayfish populations.

The department issued one permit in 1990, three in 1991 and none in 1992. We have been informed of a plan to develop a processing plant in Montana but have not received any details. A majority of the permittees' efforts have been exploratory, with only one operator known to have marketed his catch. There are reports that some crayfish have been sold to local restaurant markets.

There have been social conflicts resulting from the relatively limited fishery. Some individuals have complained that placement of traps and trap markers in the river were unsightly and offensive. Some complain that traps and floats, particularly when set in holes, interfere with sportfishing. Anglers also object to

the department's administrative costs for this program, which far exceed the fees paid by the commercial operators. The costs are associated with processing applications, MEPA compliance, public involvement, enforcement and investigation to evaluate the effects of harvest.

We have no evidence that commercial harvest has adverse biological effects, but we have little data on crayfish in Montana waters. We rely primarily on data collected in other states. If commercial crayfishing activity increases in the future, we expect the level of social conflict and complaint to increase.

EXHIBIT 8  
DATE 1-19-93  
SB 81

DATE 1/19/93

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: SB 81

Name	Representing	Bill No.	Check One	
			Support	Oppose
Mitzi Schumb	DHES	81	X	
Jim PATTEN	SELF	81	X	
H. W. Bockemuhl	Self	81	X	
Smoke Elser	Self	81	X	
John R. Stevenson	Self	81	X	
Stacy Bradshaw	MT T.U.	81	✓	
Tom Collins	MT Jell	81	X	
Mike Murphy	MT Dept of Ag	81		
ROBIN CUNNINGHAM	F.O.A.W.	81	X	
Janet Ellis	MT Audubon Leg Fund	81	✓	
Pat Graham	DFWP	81	✓	
Howard Johnson	"			
Bob Lane	"			

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY