

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By Senator Bob Pipinich, Chair, on March 4, 1993,
at 3:00 p.m.

ROLL CALL

Members Present:

Sen. Bob Pipinich, Chair (D)
Sen. Gary Forrester, Vice Chair (D)
Sen. Tom Beck (R)
Sen. John Brenden (R)
Sen. Chris Christiaens (D)
Sen. Bruce Crippen (R)
Sen. Judy Jacobson (D)
Sen. Terry Klampe (D)
Sen. Kenneth Mesaros (R)

Members Excused: Sen. Don Bianchi (D)
Sen. Gerry Devlin (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council
Kathy Collins, Committee Secretary

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

Committee Business Summary:

Hearing: HB 123, HB 110, HB 133
Executive Action: HB 123, HB 110, HB 133

HEARING ON HB 123

Opening Statement by Sponsor:

Representative John Johnson, House District 23, Glendive, stated HB 123 proposes to revise the paddlefish roe program that has been in existence in Glendive since 1989. Representative Johnson stated the first change in the bill is page 2, line 23, which extends the area where paddlefish can be taken. Page 3 specifies that paddlefish may be brought only into the Intake fishing site for donation to the roe program. Page 4, line 2 changes the percentage of the proceeds going to the Department of Fish, Wildlife & Parks (DFWP) from 50% to 40%. Page 4, lines 11-16

details what the Department's responsibilities are with regard to the proceeds from the paddlefish roe program. Page 6, line 22 extends the termination date of HB 123 to June 30, 2003.

Proponents' Testimony:

Senator Betty Bruski-Maus, Senate District 12, stated the paddlefish roe program has had a positive impact on Glendive and surrounding communities, not to mention the impact on the DFWP. Senator Bruski-Maus stated the roe program does not cost the state anything, in fact, it provides funds to the Department for paddlefish research, fisheries, fishing access, habitat and administration, and it provides funds for non-profit organizations that enrich Eastern Montana. Grants have been awarded to libraries, veteran's organizations, youth organizations, sports clubs, police departments and senior citizens' groups. Senator Bruski-Maus urged the Committee to concur with HB 123.

Representative Betty Lou Kasten, House District 28, stated the paddlefish roe program has made a tremendous difference in Eastern Montana. Representative Kasten stated she would be available for any questions regarding HB 123.

Art Whitney, representing the Montana Chapter of the American Fisheries Society, spoke from prepared testimony in favor of HB 123 (Exhibit #1).

Senator Larry Tveit, Senate District 11, stated the paddlefish roe program is good for the communities in Eastern Montana. Senator Tveit urged the Committee's support of HB 123.

Mike Carlson, member of the Paddlefish Committee, stated the roe program shows a multiple use of a natural resource. Mr. Carlson distributed a packet outlining the paddlefish roe program (Exhibit #2) and showed an informational video. Mr. Carlson stated when the idea for the roe program was formulated five years ago in Glendive, it was hoped that the project would help improve the area's economy. Paddlefish has always been a vital part of the economy of Eastern Montana, and since 1964 there has been an average of 2500 paddlefish caught each year. Paddlefishing has had a positive impact on the communities in Eastern Montana. Through research in 1987, it was discovered that the paddlefish eggs, or roe, were a source of fine caviar. Mr. Carlson stated for 26 years the roe had been thrown away in the Glendive dump at state expense. Mr. Carlson stated the original goal was to collect the roe each spring, process them into caviar and market the final product. Mr. Carlson stated the project provides for free fish cleaning and wrapping of the meat for fishermen and women in exchange for donation of the roe to the non-profit organization. Mr. Carlson stated virtually all the people who catch paddlefish donate the roe to the program. Mr. Carlson directed the Committee's attention to the two-page fact sheet in Exhibit #2 and briefly explained its content. Mr.

Carlson stated the paddlefish population is thriving. Continuous studies have been done at Intake, Montana since 1964, and Montana has more data on the paddlefish than any other state in the United States. The yearly harvest at Intake is only 3%-4% of the paddlefish population. Mr. Carlson stated caviar proceeds have helped to fund the research and will continue to do so.

Bob Van Der Veer, representing himself, stated the roe program was a good one, and he urged the Committee's support of HB 123.

Randy Urbanec, volunteer member of the Glendive Chamber of Commerce Caviar Committee, spoke from prepared testimony in favor of HB 123 (Exhibit #3).

Jim Culver, member of the Paddlefish Committee, referring to the change in the percentage split of the proceeds from the roe program, stated there was considerable time spent with the DFWP to come up with an arrangement that was equitable and fair to both parties. Mr. Culver stated the main concern of both parties is the preservation of the paddlefish species. Mr. Culver stated HB 123 has been amended to extend the termination date of the program to June 30, 2003, and this date is acceptable to him. Mr. Culver distributed information regarding the 60/40 split of the proceeds (Exhibit #4). Mr. Culver urged the Committee's support of HB 123.

Al Elser, Deputy Director, DFWP, spoke from prepared testimony in favor of HB 123 (Exhibit #5).

Curt Meeds, resident of Glendive, stated he has been a paddlefisherman ever since the first paddlefish was taken at Intake. Mr. Meeds stated throwing the paddlefish roe away was waste of one of Montana's natural resources. Mr. Meeds stated the average citizen of Eastern Montana guards the paddlefish with great jealousy and wants to see the species thrive. Mr. Meeds urged the Committee's support of HB 123.

Willie Day, representing the Eastern Montana Coalition, stated he supported HB 123.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Klampe asked Al Elser if there are any other areas of the state where this type of activity is going on. Mr. Elser stated there are not very many places in Montana where paddlefish are caught. There is a paddlefish population that resides in Fort

Peck Reservoir, but the concentration of the paddlefish that would allow the type of operation being discussed is just not there.

Senator Klampe asked Al Elser if increasing the area of the river which can be fished by 17 miles had been studied by the Department to determine if it is biologically sound. Mr. Elser stated the Department's information suggests there would be no problems associated with the extension.

Senator Mesaros asked Al Elser how the harvest of the paddlefish was controlled to make sure the population is maintained. Mr. Elser stated in 1981 there was a two fish per year regulation implemented, and since that time the Department has a good idea of what percentage of the paddlefish population is taken each year. Mr. Elser stated the Department is not interested in exploitation of the fishery.

Senator Mesaros asked Al Elser if there is a permit or season for paddlefish. Mr. Elser stated there is no cap on the total harvest, but a fisherman or woman can only catch two paddlefish in a season.

Senator Christiaens asked Al Elser if he would address the issue of paddlefish taken outside the Intake site not being tested for pesticide residues. Mr. Elser stated Tim Gallagher, Assistant Administrator of the Fisheries Division could better address that issue. Mr. Gallagher stated the pesticide testing was in the first bill because at that time the bill allowed fish to be caught from anywhere within the state. The Department felt if the population of the Missouri River were to be utilized for this program that those fish should be tested. Mr. Gallagher stated since the harvest has now been limited to the area around Intake, the Department believed the tests that had been done were adequate to continue the program; to date, nothing harmful had been found in the fish tested.

Senator Christiaens asked Al Elser if the bill as amended has shortened the area in which paddlefish will be taken, and if that is the reason the \$8000 in collection was dropped to \$2000. Mr. Elser stated the original bill would have authorized the taking of paddlefish roe throughout the range of the paddlefish in Montana. Mr. Elser stated the egg collection cost would have been more with the original bill.

Senator Christiaens asked Al Elser if the Department was comfortable with the memorandum of understanding (MOU) as to how reserves would be used and also the extension to the year 2003. Mr. Elser stated the Department is comfortable with both these issues.

Closing by Sponsor:

Representative Johnson distributed pamphlets to the Committee (Exhibit #6) and stated the paddlefish is a valuable resource which should be protected. Representative Johnson stated the studies conducted on the paddlefish are an important spin-off of the roe program, and all sides benefit from this program. Representative Johnson urged the Committee's support of HB 123.

HEARING ON HB 110**Opening Statement by Sponsor:**

Representative Chase Hibbard, House District 46, stated HB 110 updates a Fish & Game statute which dates back to 1917. When this statute was originally established, it was common for wardens or enforcement personnel who confiscated game in the field to take the game with them, together with the alleged offender, directly to the courthouse. The judge would often make the judgement on the spot and frequently sell the game, perhaps even on the courthouse steps. Representative Hibbard stated today when game is confiscated, the game is taken and held by the Department and sold at Department auction. Representative Hibbard stated this time schedule does not coincide with getting a court action on an alleged violation. HB 110 would allow the DFWP to hold those proceeds pending the result of the court action. Currently the law says the courts will hold the proceeds; the courts do not want to hold those proceeds, and they have not been holding the proceeds. Representative Hibbard stated HB 110 would update the statute and bring the law into compliance with current practice.

Proponents' Testimony:

Al Elser, Deputy Director, DFWP, spoke from prepared testimony in support of HB 110 (Exhibit #7).

Craig Hoppe, representing the Montana Magistrates Association, stated the Association supported HB 110.

Jody Brandt, representing the Legislative Auditor's Office, stated in the 1990 audit report of the Department, it was recommended the Department seek legislation allowing the Department to hold monies from the sales of confiscated property until the outcome of the prosecution is determined by the court. Ms. Brandt stated passage of HB 110 would implement that recommendation.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Forrester asked Representative Hibbard why, on page 2, lines 6-8 it is stated, "An officer is not liable for any damage on account of any search, examination, seizure, or sale." Representative Hibbard stated perhaps Erv Kent, DFWP, could address Senator Forrester's question. Mr. Kent stated that particular language is in all the legislation. Senator Forrester stated the Department has search powers which he feels are unconstitutional. Senator Forrester stated he did not understand why the Department should be any different than other agencies. Mr. Kent stated he was aware of the powers the Department has in relation to other agencies, possibly the work situation is different in terms of some of the activities going on in remote areas. Senator Forrester asked Al Elser if he had information regarding this issue. Mr. Elser stated research could be done with the Department's legal staff in order to answer Senator Forrester's concerns. Mr. Kent stated there are laws that all law enforcement officers in Montana operate under, and probable cause is at the heart of any process.

Senator Beck asked Senator Pipinich if the bill could be amended in any way to take this particular language out. Senator Pipinich stated no because the language is in all FWP legislation.

Closing by Sponsor:

Representative Hibbard respectfully closed on HB 110 and requested Senator Pipinich to select someone to carry the bill.

HEARING ON HB 133**Opening Statement by Sponsor:**

Representative Mike Foster, House District 32, stated the DFWP is entering into partnerships with various federal agencies to jointly manage certain recreation areas such as Canyon Ferry Lake and Holter Lake. In order for federal employees to enforce state FWP regulations, they need to be authorized as ex officio wardens. HB 133 would authorize BLM, Corps of Engineers and National Parks Service personnel, who have been trained as enforcement agents, to enforce Department statutes and rules. Representative stated there is no fiscal impact of HB 133.

Proponents' Testimony:

Al Elser, Deputy Director, DFWP spoke from prepared testimony in support of HB 133 (Exhibit #8).

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Beck asked Erv Kent if HB 133 would give peace officers carte blanche authority to go in and do the same things game wardens do. Mr. Kent stated the officers would operate under the same standards as the game wardens. Mr. Elser stated the Department is looking for assistance in their recreation areas. Representative Foster stated if a federal agent sees a person in violation of fish and game law, the agent can issue a ticket instead of trying to contact a warden.

Closing by Sponsor:

Representative Foster respectfully closed on HB 133.

EXECUTIVE ACTION ON HB 123

Motion/Vote:

Senator Beck moved HB 123 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 110

Motion:

Senator Jacobson moved HB 110 BE CONCURRED IN.

Discussion:

Senator Klampe stated the dissention regarding HB 110 does not actually relate to the bill.

Vote:

The Be Concurrred In motion for HB 110 CARRIED with Senators Forrester and Brenden voting NO.

EXECUTIVE ACTION ON HB 133Motion:

Senator Christiaens moved HB 133 BE CONCURRED IN.

Discussion:

Senator Christiaens asked Senator Beck what he felt was the problem with HB 133. Senator Beck stated he did not understand "peace officer" with the Corps of Engineers. Erv Kent stated "peace officer" refers to people who are trained in all aspects of law enforcement. There are federal and state peace officers, and the reason for "peace officer" is to make sure the person is qualified and the amount of training is the same. Mr. Elser stated the Department figures five to seven BLM officers and one officer from the Corps of Engineers would have ex officio capabilities.

Senator Brenden stated he worries about HB 133 setting a precedent for wardens going the other way, and perhaps issuing speeding tickets. Erv Kent stated the MOU would dictate what would be done. Mr. Kent stated the Department is stretched pretty thin with enforcement and could use all the help they can get.

Senator Christiaens asked Erv Kent if the ex officios would carry identification which would show they are acting as wardens. Mr. Kent stated that would be a part of the MOU. Mr. Elser stated there are other officers who are cross-deputized, and they do carry identification.

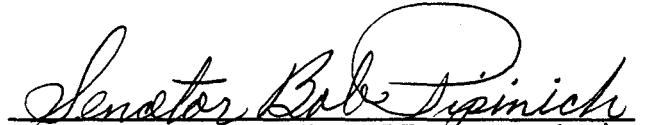
Senator Mesaros stated there are times at peaks of the seasons when he would like to see someone enforcing the laws.

Vote:

The Be Concurred In motion CARRIED by Roll Call Vote.

ADJOURNMENT

Adjournment: 4:45 p.m.


SENATOR BOB PIPINICH, Chair


KATHY COLLINS, Secretary

BP/kc

ROLL CALL

SENATE COMMITTEE Lish & Name DATE 3-4-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Jacobson	✓		
Senator Bianchi			✓
Senator Christiaens	✓		
Senator Crippen	✓		
Senator Beck	✓		
Senator Mesaros	✓		
Senator Devlin			✓
Senator Brenden	✓		
Senator Klampe	✓		
Senator Forrester	✓		
Senator Pipinick	✓		

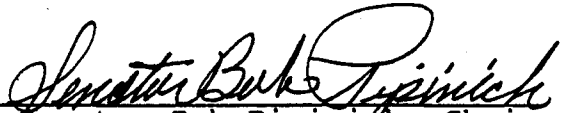
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 5, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill NO. 110 (first reading copy -- blue), respectfully report that House Bill NO. 110 be concurred in.

Signed:


Senator Bob Pipinich, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 5, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 123 (first reading copy -- blue), respectfully report that House Bill No. 123 be concurred in.

Signed:

Senator Bob Pipinich
Senator Bob Pipinich, Chair

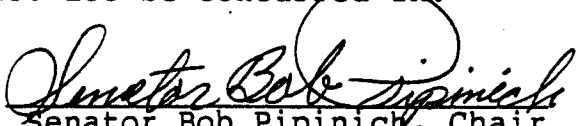
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 5, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 133 (first reading copy -- blue) respectfully report that House Bill No. 133 be concurred in.

Signed:


Senator Bob Pipinich, Chair

ROLL CALL VOTE

SENATE COMMITTEE

BILL NO. HB 133

DATE _____ TIME 3:00 A.M. (P.M.)

NAME

YES NO

[illegible]

SECRETARY

CHAIR

MOTION: Be Concurred in



american fisheries society

MONTANA CHAPTER

SENATE FISH AND GAME

EXHIBIT NO. 1

DATE 3-4-93

PH. NO. HB 123

HB 123

Testimony on Behalf of the Montana Chapter
of the American Fisheries Society
before the

Senate Fish and Game Committee

March 4, 1993

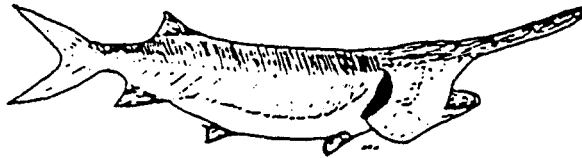
Mr. chairman and members of the committee, my name is Art Whitney and I am here on behalf of the Montana Chapter of the American Fisheries Society. The American Fisheries Society is an international organization of fisheries and aquatic professionals that promote the wise use and management of fisheries and aquatic habitat.

Our Chapter supports a paddlefish roe donation program which provides a source of funding to benefit the paddlefish fishery as long as there are no adverse impacts to paddlefish populations. However, we feel that there should be two modifications made to the present bill. First, the distribution of revenue should be returned to the 50:50 split after administrative expenses are deducted as was provided for in the original program. We feel that at least 50% of the revenue generated from this program should go the Department of Fish, Wildlife and Parks to be used to benefit the paddlefish fishery, the source of the revenue in the first place.

Secondly, the sunset clause in the present bill should be reduced from 10 years to the minimum period of time required for the Department of Fish, Wildlife and Parks to develop a management plan for the species. This paddlefish roe donation program should continue to be viewed as a pilot program until a complete stock assessment is made and a long term management plan is developed. The sunset provision should only be removed if it is determined through research that the roe donation program is compatible with the long term survival of the paddlefish.

The Montana Chapter of the American Fisheries Society supports HB 123 but recommends that the revenue generated from the program be split 50:50 after administrative expenses are deducted and further recommends the sunset clause be shortened to the period of time required for the Department to develop a long term management plan for the species.

SENATE FISH AND GAME
EXHIBIT NO. 2
DATE 3-4-93
BILL NO. HB 123



PADDLEFISH
CAVIAR PROJECT
GLENDIVE CHAMBER OF COMMERCE
AND AGRICULTURE

This document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694. (most of the information contained within this document follows this title page and is labelled exhibit 2).

EXHIBIT 2
DATE 3-4-93
HB 123

GLENDIVE PADDLEFISH CAVIAR INCOME
1990 - 1992 Distribution

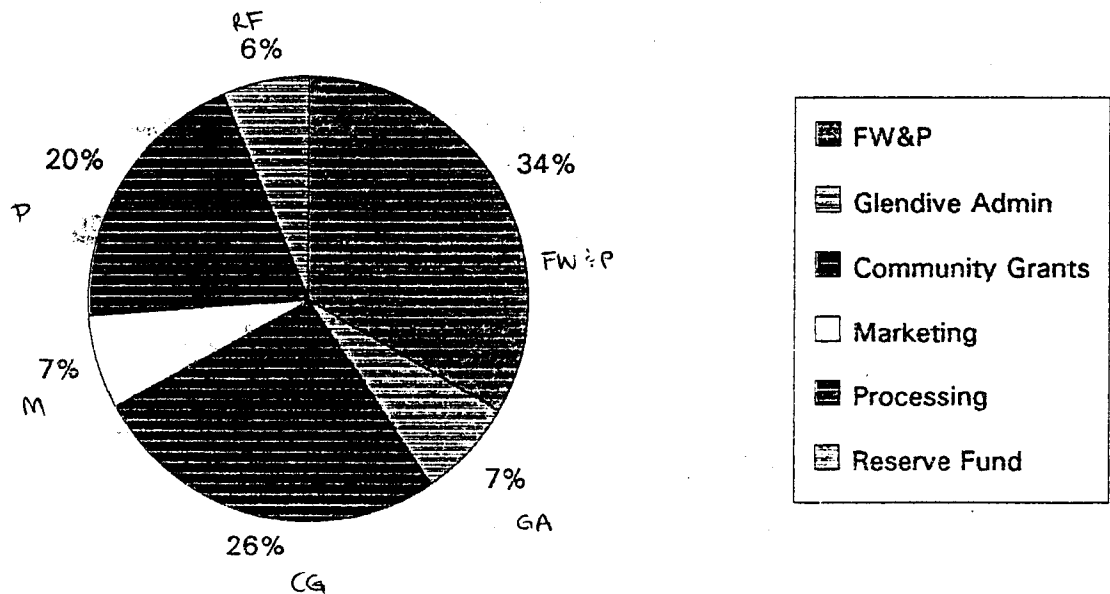


EXHIBIT 2
 DATE 3-4-93
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GLENDIVE PADDLEFISH CAVIAR INCOME

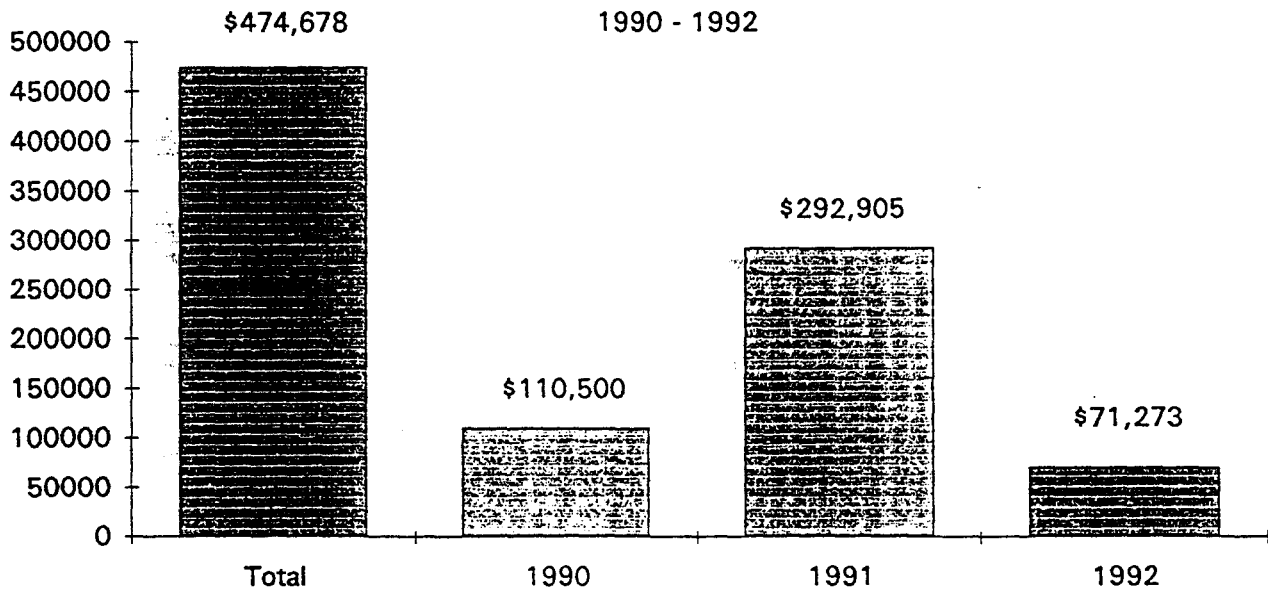


EXHIBIT 2
 DATE 3-4-93
HB 123

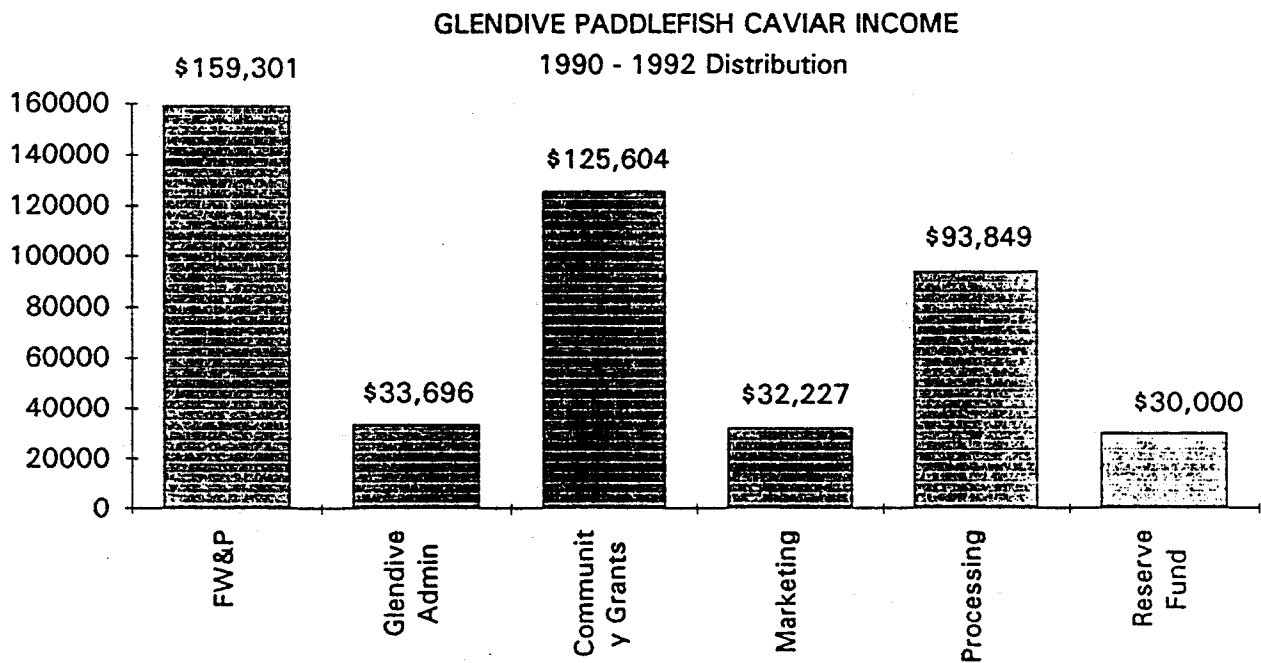


EXHIBIT 2
DATE 3-4-93
HB 123

Glendive Community Grants
1990 - 1991 Distribution (\$125,604)

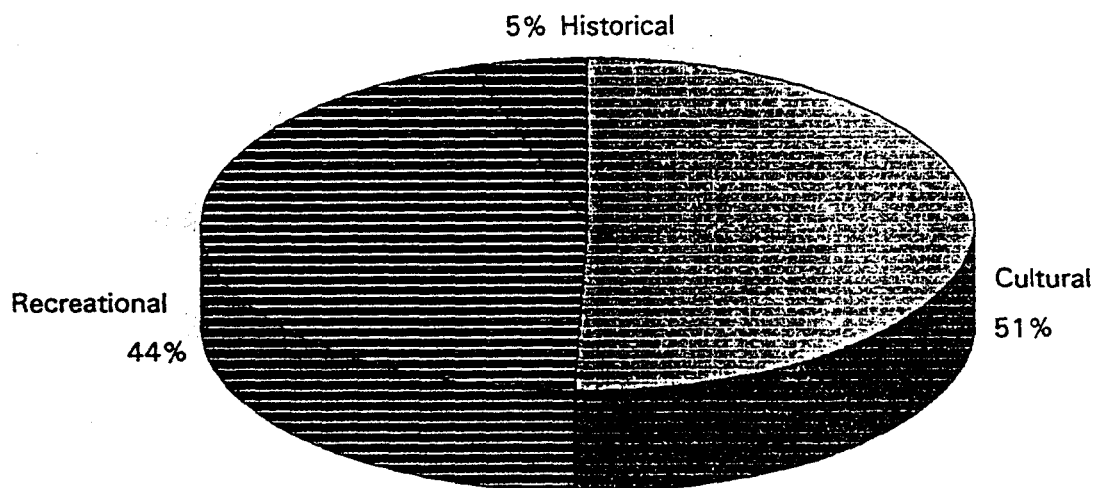


EXHIBIT 2
 DATE 3-4-93
 HB 123

PADDLEFISH HARVEST
 Intake Fishing Site (1972 - 1992)

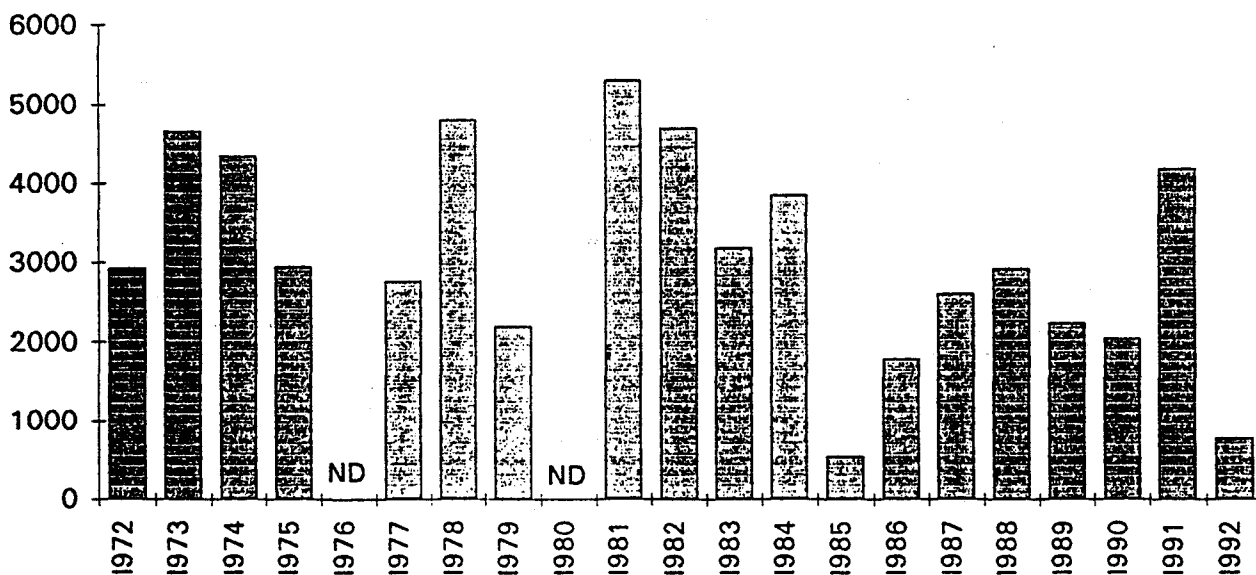


EXHIBIT 2
DATE 3-4-93
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FACT SHEET

PADDLEFISH CAVIAR PROJECT
OF THE GLENDIVE AREA
CHAMBER OF COMMERCE & AGRICULTURE

HISTORY

1. Authorized by the 1989 Montana Legislature almost unanimously and signed by the Governor March 3, 1989.
2. Minor changes by the 1991 Montana Legislature.
3. Memorandum of Understanding for operations made each year with The Montana Department of Fish, Wildlife & Parks.

ORGANIZATION

Consists of five (5) member (volunteers)
"Paddlefish Caviar Committee"
A Non-Profit Organization

INCOME (Gross)

1990	-	\$108,615
1991	-	\$292,905
1992	-	\$ 69,822
3 Year Total = \$471,342		

AMOUNT OF CAVIAR PRODUCED

1990	-	4,000 POUNDS (1,600 Paddlefish)
1991	-	10,000 POUNDS (3,000 Paddlefish)
1992	-	2,200 POUNDS (781 Paddlefish)

All caviar is processed, sealed and inspected by Montana Department of Fish, Wildlife & Parks personnel in Glendive and in Billings, Montana before it is sent to New York.

OF JOBS CREATED

TWELVE (12)

DISTRIBUTION OF PROFITS - AFTER EXPENSES

1. Fifty percent (50%) of Net Income - Given to The Montana Department of Fish, Wildlife & Parks. By law they must use it for Paddlefish Research, Information and Fishing Site Improvements in Eastern Montana.
2. Fifty percent (50%) of Net Income - goes to the Glendive Area Chamber of Commerce and Agriculture. It must be given away through grants for cultural, recreational, and historical projects in the Glendive area.

CAVIAR GRANTS FUNDED

1. 1991 - Twenty-Six thousand (26,000) give for sixteen (16) community grants.
2. 1992 - Ninety-Seven thousand (\$97,000) was distributed for thirty-eight (38) community grants for cultural, recreational and historical projects in Eastern Montana.

CAVIAR PRODUCTION FACILITIES

1. New well at Intake Fishing area in 1991.
2. New Fish Cleaning Station and processing plant at Intake in 1992. New underground Power line at Intake Fishing area in 1992. New Septic Tank System at Intake Fishing area in 1992.
3. Processing and Canning operation is set up at a local dairy in Glendive, Montana.
4. \$158,000.00 has been given to from the Montana Department of Fish, Wildlife & Parks for paddlefish research, information, and fishing site improvements in Eastern Montana in 1990, 1991, and 1992.

COPIES 2
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1991 CAVIAR GRANT AWARDS

	<u>GRANT AMOUNT</u>
1. Friends of Makoshika State Park	\$ 5,000.00
2. Babe Ruth Baseball	\$ 5,000.00
3. Chamber of Commerce - Intake Well Project	\$ 4,524.00
4. Tennis Association	\$ 2,500.00
5. Glendive Lions AAU Wrestling	\$ 2,500.00
6. American Legion Baseball	\$ 1,000.00
7. Hollecker Lake Committee	\$ 1,000.00
8. Glendive Community Building	\$ 1,000.00
9. Noon Lions -Eastern Mt. Leadership Camp	\$ 500.00
10. Dawson County Arts Unlimited	\$ 500.00
11. DCC Fine Arts - Shakespeare in the Park	\$ 400.00
12. Senior All Nighter	\$ 150.00
13. Glendive Police Department	\$ 150.00
TOTALS	\$ 24,224.00

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1992 CAVIAR GRANT AWARDS

	<u>GRANT AMOUNT</u>
1. Eastern Montana Historical Society (Sidney)	\$ 300.00
2. Friends of Intake (Mondak Historical Society)	\$ 3,000.00
3. Cross On The Hill Restoration	\$ 2,000.00
4. Glendive Trap Club	\$ 2,000.00
5. Frontier Gateway Museum	\$ 1,000.00
6. Friends of the Library	\$ 20,000.00
7. Makoshika Bowman	\$ 1,500.00
8. Prairie County Museum (Terry)	\$ 1,600.00
9. American Legion Baseball	\$ 2,625.00
10. Glendive Arts Unlimited	\$ 500.00
11. Glendive Swim Team	\$ 1,500.00
12. Girl Scouts Camp	\$ 500.00
13. Glendive Girls Softball Association	\$ 8,000.00
14. Glendive Tennis Association	\$ 2,000.00
15. Cottonwood Public Golf Course	\$ 4,500.00
16. Senior All Nighter	\$ 250.00
17. Merchants Committee -Banner Project	\$ 6,610.00
18. Babe Ruth Baseball	\$ 3,000.00
19. Glendive Police Youth Activities	\$ 150.00
20. Dawson County Fairboard	\$ 2,000.00
21. Eastern Montana Camp (Bloomfield)	\$ 5,000.00
22. Shakespeare in the Park	\$ 250.00
23. Badlands Drifters Car Club	\$ 500.00
24. Lone Tree Archers of Sidney	\$ 1,500.00
25. Glendive Video - EDC	\$ 1,000.00
26. ABC Little League Baseball	\$ 3,200.00
27. Noon Lions Youth Camp	\$ 5,000.00
28. Eastern Montana Sportsman Headquarters (Circle)	\$ 2,500.00
29. Breakfast Lions - Hollecker Lake Improvement	\$ 660.00
30. Jaycees Youth Football Program	\$ 2,000.00
31. Glendive Chamber of Commerce -Hathaway Sign	\$ 700.00
32. Glendive Chamber of Commerce - Tourist Brochure	\$ 3,020.00
33. City of Glendive - Lloyd Square Park Shelter	\$ 4,000.00
34. Jordan Booster Club - Youth Center	\$ 1,000.00
35. Special Olympics	\$ 300.00
36. VFW/VVA/American Legion	\$ 700.00
37. PLASAFN - Youth Center	\$ 750.00
38. Kiwanis & Lower Yellowstone Amateur Radio Club (Visitor Information Radio Station)	\$ 1,000.00
39. Noon Lions AAU Wrestling	\$ <u>812.50</u>
TOTALS	\$ 96,927.50

will continue to make of the committee

RANDY VESTER

My name is ~~Steve Ohs~~, I am a volunteer member of the Glendale Chamber of Commerce Caviar Committee ^{SPREADING ON} ~~and also a member~~ ^{BEHALF OF THE CAVIAR GRANT COMMITTEE} ~~of the Caviar Grant Committee~~. The Grant Committee is the committee that the Fish and Game Commission appointed to handle the disbursement of the Chamber's share of the profits.

SENATE FISH AND GAME
EXHIBIT NO. 3
DATE 3-4-93
BILL NO. HB 123

Carlin
The Grant Committee awarded grants totalling \$24,224, from the first year of operation and \$96,927 from profits in 1991.

Last year, we reviewed 56 grant applications and funded 38 projects. Demand for funds far outweighs the supply. The committee generally does not fund 100% of estimated cost of each proposed project and most of the projects include voluntary labor ^{AND DONATED MATERIALS} to reduce the overall costs of each project. Usually the grant is ^{REQUESTED} by an organization such as Jaycees, ~~Baseball Associations, Lions Club,~~ ^{NON PROFIT} or organized committees that ^{follows} are accountable for the funds. We also require receipts before funds are disbursed.

The total estimated cost of the projects that were awarded grants were, \$122,000 ⁹¹ the first year and \$574,000 ⁹² the second year; for a two year total of \$696,000. ⁹⁰⁻⁹¹

These grant funds are desperately needed in our community and

✓

Eastern

surrounding area. The population and tax base in

Montana

has dropped dramatically. City and County governments do not have funds to maintain or improve our existing recreational facilities, and adding new programs, equipment or facilities, is not a reasonable expense in our current economic situation.

In addition to recreation, grants can also be used for cultural and historical projects, and ~~we have granted a substantial percentage of the grants to these categories.~~ In the first two years

the committee awarded 50% of the funds for cultural projects, 5% for historical and 45% for recreation. ~~27% of the grants~~

we are also looking favorably at applications outside the Glendive Area
~~were to locations other than Glendive.~~ A few of our grants were

At least 90% of these outside requests have been funded.
used for seed money for other grants. We awarded \$20,000 to an organization called Friends of the Library. They are a group that had been raising funds for years in order to provide a building for the County Library, which was formerly housed in a portion of the court house basement. They had raised

approximately \$105,000. We awarded them \$20,000 and they received another grant from The Federal Library Services Construction Act Fund in the amount of \$128,000. This allowed them to purchase a building, remodel and move all their books

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and equipment. Their Grand Opening ~~is scheduled for~~ ^{was} February 4, 1993.

Another project that used our funds as matching funds was the Triceratops skull restoration project, sponsored by Friends of Makoshika, a nonprofit group that promotes and assists with ~~our~~ ^{TXR} local State Park. They used a \$5000 grant to match state funds which were ~~matched twice more~~. ^{THAT}

The Triceratops was found in Makoshika State Park. It was removed from the site and restored at the Museum of the Rockies in Bozeman. The Skull will be displayed in our new Park Visitors Center when it is completed. Most of the grant projects have additional benefits, that also help our Community and area. We awarded a grant to the Glendive Tennis Association which used it to repair existing facilities and expand some Tennis Courts to meet with MHSA standards. With the additional Courts, we were able to host the State Tennis Tournament last year.

The Babe Ruth Baseball Association was awarded a grant for new lighting and stadium repairs. They have hosted a State and Regional Tournament in the last two years. We awarded a grant

to the Eastern Montana Headquarters for Sportsmen in Circle Mt. They plan to build and staff a facility which will distribute information to Hunters and other sportsmen. They plan to assist sportsmen with information, directions, and Landowner--Sportsmen relations. We awarded the Prairie County Museum in Terry, a grant to provide advertising signage for the Cameron Photo Exhibit. They placed these signs along the Interstate in the hopes of attracting tourists to their Community.

All of these projects benefit the Communities by bringing people and money to the area. Whether for hunting or baseball tournaments or to stop and see a dinosaur skull, it all helps our community and our State. Some economists estimate that new money coming into a community circulates over 5 times before leaving the area. If this is true, the Caviar Project has created over 2 million dollars of economic benefit to ^{Cassidy Community} our area and State.

I urge you to support the continuation of the Caviar Project.

~~The dollars created by this project are dollars previously thrown in the landfill.~~

Paddlefish Information

- FWP has estimated their current paddlefish research costs are \$32,000 to \$35,000 per year; the enforcement administrative costs are estimated at \$9,000 to \$11,000 per year. It is the intent of both parties to provide funding for the current level of paddlefish research and administration.
- In the event the FWP Research Reserve Funds are not sufficient to cover a shortage in the above noted annual expenses, the following would apply:

All funds available for grants in the year that the FWP expenses are incurred would be eligible to offset FWP annual research and administrative expenses first.
- The term of this agreement will at a minimum be for a sufficient length of time to cover the on-going 5 year research study (1992-1997).

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The following example illustrates splits and costs if 2,000 Fish were caught and cleaned at the Intake Site:

Proposed:

\$128,000 of proceeds available before the split

60% to Non-Profit	\$76,800	40% to FWP	\$49,200
Less Administration	-\$14,000	FWP Administration	-\$10,000
	<u>\$62,800</u>		<u>\$39,200</u>
		Research	-\$35,000
			<u>\$4,200</u>
Available for Grants	\$62,800	Annual Excess	+\$ 4,200
Total to FWP	\$49,200		
Total to Non-Profit	\$76,800		

Current:

\$128,000 of proceeds available before the split

50% to Non-Profit	\$64,000	50% to FWP	\$64,000
Less Administration	-\$14,000		\$10,000
	<u>\$50,000</u>		<u>\$54,000</u>
		Research & Adm	-\$35,000
			<u>\$19,000</u>
Available for Grants	\$50,000	Annual Excess	+\$19,000
Total to FWP	\$64,000		
Total to Non-Profit	\$64,000		

EXHIBIT 4
DATE 3-4-93
1 HB 123

The following example illustrates splits and costs if 1,000 Fish were caught and cleaned at the Intake Site:

Proposed:

\$64,000 of proceeds available before the split

60% to Non-Profit	\$38,400	40% to FWP	\$25,600
Less Administration	-\$14,000	FWP Administration	-\$10,000
	<u>\$24,400</u>		<u>\$15,600</u>
		Research	-\$35,000
			<u>-\$19,400</u>
		Deficit	-\$19,400
By terms of MOU	-\$19,400		<u>+\$19,400</u>
Available for Grants	\$ 5,000		
Total to FWP	\$45,000		
Total to Non-Profit	\$19,000		

Current:

\$64,000 of proceeds available before the split

50% to Non-Profit	\$32,000	50% to FWP	\$32,000
Less Administration	-\$14,000	FWP Administration	-\$10,000
	<u>\$18,000</u>		<u>\$22,000</u>
		Research	-\$35,000
			<u>-\$13,000</u>
		Deficit	-\$13,000
Available for Grants	\$18,000		
Total to FWP	\$32,000		
Total to Non-Profit	\$32,000		

SENATE FISH AND GAME
EXHIBIT NO. 6
DATE 3-4-93
BILL NO. HB 123

HB 123
March 4, 1993

Testimony presented by Al Elser, Dept. of Fish, Wildlife & Parks
before the Senate Fish and Game Committee

The 1989 Legislature legalized the collection, processing and selling of paddlefish eggs through a narrowly defined pilot program at the Intake fishing access site. This legislation is scheduled to sunset on June 30, 1993.

Montana's paddlefish population is still healthy. However, other states have not been as fortunate, and the paddlefish population has declined throughout much of its range. Loss of habitat and over-exploitation through illegal commercial harvest of paddlefish for eggs are two principal causes. We share a population with North Dakota and coordinate our efforts with them.

There is considerable attention and concern for the species on a national level. Since 1989, (the inception of this program) the Fish and Wildlife Service has received a petition to list the paddlefish under the Endangered Species Act, it has changed its classification under the act from C-3 to C-2 to encourage much needed research on the species, and the paddlefish has been added to Appendix II of the Convention on International Trade in Endangered Species [CITES]. Clearly, much attention is focused on the paddlefish, including Montana's management of the species and the paddlefish roe program.

Our management goal for paddlefish is to maintain adequate populations of this species to permit both a recreational harvest and a limited, controlled and enforced roe-caviar operation. The original version of HB 123 would have made it difficult to meet that goal; however, amendments offered by Representative Johnson largely addressed our concerns.

HB 123 does change the percentage of revenue the department receives from 50% to 40% of the net proceeds. We currently dedicate a significant portion of our revenue to study the paddlefish population. Objectives of this study are to develop a long-term management plan and determine a safe level of harvest, which we feel are essential to provide for continued harvest of paddlefish. Increased enforcement activities related to this program also come out of the department's share. The remainder of our share provides improved facilities for the public at the Intake fishing access site, as well as educational and interpretive materials.

We purposefully do not spend our balance of this revenue to zero each year. Continuation of our enforcement activities and the paddlefish research are critical to the well being of this fishery. Since the revenue generated by the program varies significantly between years, this provides a more stable spending base.

The Glendive Chamber of Commerce has agreed that, regardless of the revenue generated, these two activities would receive top priority for available funding. This will be formalized by an MOU with the Glendive Chamber of Commerce. With this agreement, we support HB 123 as amended.

What is the greatest threat to paddlefish?

The greatest threat is loss of spawning habitat. Successful spawning seems to be the weak link in the paddlefish's survival. Paddlefish can grow well in reservoirs (even faster than in rivers), but they need natural, free-flowing rivers to reproduce effectively. Most states that have lost their paddlefish have destroyed their spawning habitat, and without that spawning habitat, we really can't do much for the species in the long run.

Legal overfishing has depleted paddlefish stocks in some areas, but it is not as much of a threat as habitat loss. Illegal fishing, however, can be a major threat to the species because it is uncontrolled. Illegal paddlefishing, just for the eggs, which are a valuable source of caviar, has been documented in several states. In Missouri and Tennessee, especially, many fish of both sexes have been illegally taken or killed as poachers sought eggs. Anyone hearing about illegal harvest should report it immediately.

Are Yellowstone paddlefish being overharvested now?

After preliminary analyses, we have not found any obvious evidence that they are being overharvested. But Dr. Phillip Stewart (of Fish, Wildlife and Parks) and I will be investigating in the next few years. With a fish like paddlefish that matures at an old age, has a record of reproduction problems, and is not really seen much until it is large and on its upstream migration, we need to be watching constantly for signs of overharvest.

Why are you studying the paddlefish at Intake?

Dr. Phillip Stewart (of Montana Fish, Wildlife and Parks) and I are trying to find out how many paddlefish can be harvested each year while still allowing enough fish to spawn and perpetuate the species and the fishery. That's the basic question: How many can we safely harvest? Our approach is to develop an age-structured model of the population. That's why we are removing jaw bones, to estimate the age of the fish. We are also studying how we might forecast ahead of time how many paddlefish may be available for harvest, and how the catch is influenced by flow conditions on the Yellowstone River. Well-managed fisheries need to be managed closely and continuously. Most fisheries are not well understood and Fish, Wildlife and Parks is committed to understanding the paddlefish, even if the species is stubborn in giving up its secrets.



QUESTIONS AND ANSWERS ON

Yellowstone



SENATE FISH AND GAME

3-4-93

HB 123

DNR

BILL NO.

PADDLEFISH

Some answers to questions commonly asked about the paddlefish by anglers at Intake, MT. Prepared by Dr. Dennis L. Scarnecchia, Associate Professor of Fisheries at the University of Idaho and edited by Dr. Phillip Stewart, Montana Department of Fish, Wildlife and Parks. Dr. Scarnecchia is conducting research in collaboration with Dr. Stewart on Yellowstone River paddlefish at Intake, Montana, near Glendive.

*Montana Department
of
Fish, Wildlife & Parks*

What is a paddlefish?

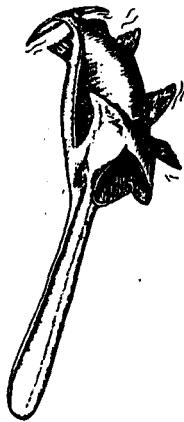
It's an ancient, mostly cartilaginous fish with a smooth skin. It's most closely related to sturgeons. Although its sometimes called a spoonbill cat, it isn't closely related to catfish.

Where are paddlefish found?

Paddlefish are found throughout the Missouri and Mississippi River basins, which drain most of the central United States. Twenty-two states have paddlefish, and Montana is the most westerly state with them.

What do paddlefish eat?

Paddlefish feed mostly on tiny, often microscopic animals called zooplankton. They filter, or strain the zooplankton from the water with filament - like gill rakers by swimming with their mouth wide open. In some places, paddlefish also eat aquatic insects and, occasionally, small fish, but zooplankton is the main food in lakes and reservoirs. That's why paddlefish won't take baits, and why they are snaggd. Interestingly, very young paddlefish will "bite" at small food particles, but soon switch to filtering for their food as they grow and need more food.



What is the life cycle of paddlefish caught in Intake?

The fish caught at Intake are mature males and mature females that have migrated up the Yellowstone to spawn. Most of the fish have reared in Lake Sakakawea in North Dakota. Those fish not caught by snaggers are thought to deposit their eggs and milt at spawning sites on flooded gravel bars in the river. The eggs become very sticky after they're fertilized and stick to the gravel and cobble. The eggs hatch in about 7 days in water 60° F, and we think the young fish move downstream in the turbid Yellowstone waters, eventually reaching the reservoir where they spend much of their life (7-10 years). When they mature, they then migrate up river to spawn. Adult fish do not necessarily die after spawning, but we know that a given female only spawns about every 3-5 years, and a given male perhaps every other year. So you can see that Montana and North Dakota need to work together (and, in fact, do), to understand and manage these fish. The paddlefish uses the whole river, and does not recognize state boundaries.

How can you tell how old a paddlefish is?

The best way that we know of is to use the lower jaw bone, called a dentary. We remove both lower jaws and dry them for 1-2 months. Then we cut a thin cross-section of each jaw and interpret annual rings on it, much like interpreting tree rings. One ring is formed on the jaw each year. We are also investigating the use of ear bones, called otoliths, for aging the fish. The otoliths have annual rings on them, too.

How old are the paddlefish at Intake?

In a study at Intake in the early 1970's by Bruce Rehwinkel of Montana Fish, Wildlife and Parks, paddlefish caught there were found to be between 4 and 25 years old. Most of the large fish (60-90 lbs) are old females, aged 15-25 or older. The males are typically 9-15 years of age. Paddlefish can live to age 30 or older, with females living longer than males, and fish here in the Yellowstone and upper Missouri River living longer than those farther south. Our current study is designed to estimate the age of fish now being caught at Intake.

How big do paddlefish get?

The largest paddlefish on record was speared in Lake Okoboji, Iowa in 1916. It weighed over 198 lbs. The Montana record is 142 pounds. Fish living in lakes and reservoirs often grow faster and larger than those living solely in rivers.

Why are male paddlefish smaller than female paddlefish?

The males and females have evolved different strategies for reproducing and passing on their genes to the next generation. The larger a female is, the more eggs she can produce, and the more young paddlefish she will probably produce. So it's really an advantage for a female to grow as large as she can and produce the extra eggs. A male gains less by becoming large, because even a small male will have millions of sperm-enough to fertilize all of the eggs from the largest female. It doesn't appear that largeness in males would give them much of an intimidation advantage over other males in turbid waters like the Yellowstone. It's better for an individual male to mature at a younger age than the female, reproduce more often than she does, and not wait to grow large and take a chance on dying before he gets to spawn. It is worth it, though, for an individual female to delay her maturity and take the chance, because of the additional eggs she'll produce. This is probably the best explanation for the size differences that we've come up with.

What's this I've heard about a Chinese paddlefish?

There are only two living species of paddlefish, and the other species is found in the Yangtze River in China. That species is much larger than our paddlefish and has a spear-like snout. Unlike our paddlefish, it is a bottom-feeding predator that eats fish. It can also live in saltwater, although it needs rivers to spawn. Like our paddlefish, it has been depleted because of alteration of its large river habitats, and from overfishing. It is very rare, protected by the government and is a highly revered fish. The Chinese are trying to raise them in hatcheries to ensure their survival.

Where do paddlefish spawn?

We believe they spawn over gravel bars in several areas of the Yellowstone, but exact spawning sites are not known. Only one place has been successfully observed and documented paddlefish spawning (in Missouri). We really can't see much of anything in the turbid waters of the Yellowstone, so observing the actual spawning will be difficult. It's thought that they spawn during high water periods late spring or early summer in the Yellowstone.

What is the paddle for?

We're not exactly sure what the paddle, or rostrum is, but we do think it isn't. The paddle was originally thought by scientists in the early 1900's to be a shovel used to dig up mud and silt as the fish searched for small food organisms. Others thought it was a stick used to stir up aquatic plants and shake off the insects or other food. But the paddle is not a shovel, a scoop, a rod, or a spear. This much you can see if you look closely at the paddle and notice that it has no scratches on it. Besides, we've already seen that paddlefish are mid-water filter feeders and are not feeding on the bottom.

We do know that the paddle and the head are covered with tiny sens pores, and that it probably uses these pores to detect food organisms. The paddle may also function to keep the fish level in the water while it is continually moving, filtering the zooplankton. The paddle would then provide "lift" much like airplaning to keep fish from sinking.

The paddle is not developed at all on very young fish, but by the time the fish reaches 8 inches, the paddle may be half the total length of the fish. As the fish gets larger, the paddle becomes relatively shorter compared to the total length of the fish. Adult paddlefish can live without a paddle, but there is some evidence that those fish which have lost their paddles feed less efficiently and are thinner than those with their paddles intact.

Why are paddlefish common at Intake when some people in other states think paddlefish should qualify as an endangered species?

Habitat quality for paddlefish is especially good for all life stages in the Yellowstone River - Lake Sakakawea system. Paddlefish evidently spawn effectively in the Yellowstone because the free flowing, naturally fluctuating river provides good spawning habitat for them. They're finicky spawners that need a combination of high water, the right temperature, and a good substrate of clean gravel and cobble. The plentiful water in spring covers gravel bars that would be used for spawning. It may be that the turbid waters protect the young fish from predation as the young move downstream to the reservoir. Once in the reservoir, paddlefish have abundant food for growth and maturation. So there's good habitat for the entire life cycle.

But in other areas, habitat quality is usually much worse. Nearly all of our large rivers in North America have been significantly changed by dam and reservoir construction, dredging, channelization or excessive water withdrawals for agriculture and industry. Few rivers today provide combinations of flow, temperature and gravel substrates suitable for paddlefish spawning. In many states, paddlefish have been nearly eliminated because their spawning habitat has been lost; but not on the Yellowstone.

SENATE FISH AND GAME
EXHIBIT NO. 7
DATE 3-4-93
BILL NO. HB 110

HB 110
March 4, 1993

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

The purpose of this bill is to allow the department to hold money received from the sale of confiscated game until the outcome of a prosecution is determined. Passage of the bill will allow the department to conform to a recommendation in the 1990 financial-compliance audit conducted by the Office of the Legislative Auditor.

The existing statute was enacted in 1917. It requires courts to hold the money. Years ago, when game wardens issued citations they had to immediately take the alleged game law offender and the game to the judge. The game sale needed to take place quickly due to limited refrigeration. This was probably done near the courthouse and possibly under the direction of the judge.

Since then, practices have changed, but this law was not updated accordingly. For many years now, wardens have not been required to bring the alleged offender or the game directly to the judge. The game is placed in refrigerated facilities until the department holds an auction and sells it to the highest bidder. A prosecution that goes to trial will not normally conclude until well after the game is auctioned.

Court appearances no longer occur immediately, either. If an alleged violator posts bond or is found guilty, the sale proceeds go to the department. However, if the verdict is not guilty or the prosecution is dropped, the person from whom the game was seized receives the money.

The present practice, with the concurrence of the courts, is for the department to hold and account for the money received from sales of confiscated game. Technically, however, the law requires that the money be held by the courts. The courts do not want the extra accounting burden and, through the Montana Magistrates Association, they support the proposed legislation.

Since the department conducts the sale of confiscated game and collects the money, it would be more efficient if we continue the current practice of holding the money until the outcome of the violation is determined by the court.

In closing, this amended legislation will recognize current practice and bring us into compliance with state law and the 1990 Legislative Audit Report.

SENATE FISH AND GAME
EXHIBIT NO. 8
DATE 3-4-93
BILL NO. HB 133

HB 133
March 4, 1993

Testimony presented by Al Elser, Dept. of Fish, Wildlife & Parks
before the Senate Fish and Game Committee

HB 133 is an act to authorize the Department of Fish, Wildlife and Parks to designate certain federal officers and agents from additional federal agencies as ex officio wardens to enforce state Fish, Wildlife and Parks laws and regulations.

Section 87-1-503 presently allows the Department of Fish, Wildlife and Parks to designate ex officio warden status to officers of the U. S. Forest Service and agents of the U. S. Fish and Wildlife Service. In addition, most state game wardens are presently deputized as U. S. Special Game Management deputies. This cross certification has worked well in addressing serious poaching crimes.

Federal officers are adequately trained and can successfully fulfill these ex officio duties without any additional cost to the department.

We are now requesting authorization to designate ex officio warden status to peace officers of the Bureau of Land Management, National Park Service, and Corps of Engineers. The need is for state parks

and recreation areas during high use periods and occasional assistance with wildlife enforcement efforts during hunting seasons. This bill will allow us to work with these federal agencies on some of our sites where we are pursuing federal partnerships, such as Hell Creek State Park and Canyon Ferry State Park. We anticipate more federal/state partnerships in the future. The type of enforcement duties performed will be limited to enforcement of Fish, Wildlife and Parks statutes presently enforced by state game wardens or parks rangers.

The department supports HB 133.

DATE 3-4-93

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: HB 110, HB 123, HB 133

Name	Representing	Bill No.	Check One	
			Support	Oppose
Mike Carlson	Glendive Chamber of Commerce	123	✓	
Jim Culver	Glendive, MT.	123	✓	
Curt Meek	Glendive MT.	123	✓	
Quincy McKenna	Glendive MT.	123	✓	
Curt Van Der Vore	Self	123	✓	
AL ELZER	FWP	123	✓	
"	"	110	✓	
"	"	133	✓	
Pat Whitney	Mo. Chap. Am. Dist. Soc.	123	✓	
Jim Gallagher	FWP	123	✓	
ESV BENT	FWP	133	✓	
Sen Brucki-Manc	SD 12	123	✓	
Willie Day	Eastern mt. Coalition	123	✓	
CRAIG L. HAPPE	MT MAGISTRATES ASSN	110	X	
Jody Brandt	Leg. Auditor's Office	110	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY