

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN FOSTER, on March 9, 1993, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. Mike Foster, Chair (R)
Rep. Chase Hibbard, Vice Chair (R)
Rep. Bob Ream, Minority Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Bob Clark (R)
Rep. Fritz Daily (D)
Rep. Jim Elliott (D)
Rep. Duane Grimes (R)
Rep. Marian Hanson (R)
Rep. Dick Knox (R)
Rep. Bea McCarthy (D)
Rep. Brad Molnar (R)
Rep. Scott Orr (R)
Rep. Bill Ryan (D)
Rep. Emily Swanson (D)
Rep. Doug Wagner (R)

Members Excused: None.

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Mary Riitano, Committee Secretary

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

Committee Business Summary:

Hearing: SB 418,
Executive Action: SJR 3, SB 199

HEARING ON SB 418

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, Senate District 20, Great Falls explained SB 418 attempts to close a loophole in an agreement between the State of Montana and the Federated Salish-Kootenai Tribes. The Governor and tribes negotiated what the jurisdiction in the State

of Montana over fish & wildlife should be. SB 418 gives the state and the tribes the ability to enforce the agreement.

Proponents' Testimony:

Mr. Pat Smith, Staff Attorney for the Salish-Kootenai Tribes said the tribes initiated discussions in reaching a cooperative agreement regarding hunting and fish in late 1986. An agreement was reached in 1989 and legislation was introduced. After discussions with the tribes, Governor Stephens opted not to sign the cooperative agreement. The tribes went to district court to sue the state in enforcing any of its hunting and fishing laws and modify administration pursuant to the treaty, which said that the tribes had the exclusive right to hunt and fish on the reservation. The tribes prevailed at the preliminary hearing. Discussions were accelerated with the tribe. A cooperative agreement was signed in November 1990 as an out-of-court settlement. The Flathead reservation has broad-based support for the agreement and it is working. The reason SB 418 is being proposed is because of a loophole when an individual decided not to buy the joint license. The first time he was not prosecuted; the second time he was found innocent, based on the conflict between Department jurisdiction and the cooperative agreement. Mr. Smith distributed a copy of an article from the Missoulian newspaper regarding the case (EXHIBIT 1). He also presented two letters supporting SB 418 (EXHIBITS 2 AND 3).

Mr. Stan Bradshaw, Montana Trout Unlimited said that at the time the original legislation was proposed, the Department was experiencing difficulties in management. He felt SB 418 would aid in enforcement.

Mr. Al Elser, Fish, Wildlife, and Parks Department distributed written testimony (EXHIBIT 4).

Ms. Deanne Sandholm, Assistant Attorney General expressed her strong support of the tribal agreement and SB 418, as well as the support of the Attorney General and Governor's office.

Opponents' Testimony:

Mr. John Cramer, Citizen distributed and read the statements from Mr. Stan Ryan and Mr. John E. Cramer opposing SB 418 (EXHIBITS 5 AND 6). He expressed his opposition to the bill.

Mr. Del Palmer, Citizen distributed written testimony (EXHIBIT 7).

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. DOUG WAGNER asked Mr. Elser why the meeting in Kalispell was held behind closed doors. Mr. Elser stated the negotiations were

conducted government-to-government. Discussions were very grim at first, and both sides doubted how far they were going to get. The Department and the tribal government asked the Attorney General's opinion about conducting the negotiations in closed session. The negotiations were done in closed session because of their highly sensitive nature, but were not secret. The only reason the meeting was held at Lone Pine was because of their accommodating facilities. They tried to alternate between the tribal and state complexes. Shortly after the meeting, the current Fish, Wildlife, and Parks Director made a commitment to gather with the residents of the area in which the meeting was held and discuss that day's negotiations. **REP. WAGNER** asked if the public was invited to comment on the agreement after it was reached. **Mr. Elser** said yes, quite extensively. When SB 446 was passed in the 1989 session, part of the provisions in the bill dictated that the Department and the state collect public input. Five open house meetings were conducted both on and off the reservations to talk about the agreement. **REP. WAGNER** asked if **Mr. Palmer** was singled out for arrest. **Mr. Elser** replied many licenses have been checked in the last couple of years. At **Mr. Palmer's** trial, the arresting officer testified that others found without the joint license were issued a courtesy citation and given the opportunity to purchase the proper license. **Mr. Palmer** refused to purchase the joint license.

REP. CHASE HIBBARD asked **Mr. Elser** how the tribal vs. Montana season types and regulations for hunting and fishing compare. **Mr. Elser** replied they were similar. During the first season, minor problems were encountered, but they were corrected. Regulations are passed jointly and concurrently with Native Americans. One difference is that for all bird hunting, steel shot is required. Another minor difference is the shooting hours. **REP. HIBBARD** stated the tribal council and the Fish & Game Commission try to agree on uniform regulations. He asked **Mr. Elser** what happened if they do not agree. **Mr. Elser** explained there was a clause in the agreement for settlement of those types of disagreements. During the two years the agreement has been in place, no disagreements have occurred. **REP. HIBBARD** asked if both tribal and state wardens have jurisdiction. **Mr. Elser** stated the agreement specifically requires cross-deputization of both government wardens. Depending on whether the citation was written on state or tribal land, it will go to the appropriate court. **REP. HIBBARD** asked if all the fines and fees go to the tribe. **Mr. Elser** said yes. The agreement specifically says license income and fines go to the tribes and is earmarked for resource management on the reservation. **REP. HIBBARD** inquired if the state Fish, Wildlife, and Parks Department was reimbursed for the game warden service it provided in reservation areas. **Mr. Elser** said no. The fees collected are earmarked for resource management on the reservation.

REP. WAGNER asked **Mr. Elser** if a state license was required when hunting pheasants on private land off the reservation. **Mr. Elser** said yes. **REP. WAGNER** asked if a tribal permit was needed in

this instance. Mr. Elser said no. REP. WAGNER asked why a tribal permit was needed to hunt on your own private land on the reservation if you have both state licenses. Mr. Elser said part of the problem when negotiations began was that there were two licenses and two sets of regulations. An effort was made to unify those regulations and licensing requirements. A resident of the reservation needs to purchase only the joint license to fish and hunt birds on the reservation, and that license would be recognized by the Department off the reservation. REP. WAGNER asked if Mr. Elser felt this was a threat to personal property rights. Mr. Elser said no.

Closing by Sponsor:

SEN. DOHERTY thanked the committee for the hearing. All fees will be earmarked by the tribes for wildlife management and be kept in a special conservation account as provided in the agreement. The agreement was worked out between two governments after long negotiations. It was understood that the agreement would be enforced. Individuals have not been singled out, but rather, those individuals decided to test the law. HB 418 will close a loophole found in the agreement. He urged the committee to pass the bill.

PRESENTATION BY REP. REAM ON SJR 3

Opening Statement:

REP. BOB REAM distributed a copy of the history of the wolves in Montana (EXHIBIT 8). He also distributed a copy of a mortality study of adult female ungulates in the North Fork Flathead River drainage area (EXHIBIT 9) and a copy of a 1993 wolf monitoring map (EXHIBIT 10). He presented a slide show about the gray wolf and the studies being completed on it.

Questions From Committee Members and Responses:

REP. HIBBARD asked REP. REAM how certain it was that the wolves will actually be delisted from endangered once 10 breeding pairs are reached. REP. REAM said he could not honestly answer the question. He explained listing it as endangered was a federal action and therefore the federal government should bear the cost of the recovery program. He is proposing an amendment. His concerns were the decreasing funds and that it would be placed at the bottom of the priority list.

REP. WAGNER asked REP. REAM if the wolf had been delisted in Minnesota and Wisconsin. REP. REAM replied the wolf is listed as endangered in the lower 48 states with the exception of Minnesota where it has been downlisted to threatened. REP. WAGNER asked if the criteria had been reached in Minnesota. REP. REAM said Minnesota established different criteria than Montana for the eastern timber wolf. REP. WAGNER asked if the downlisting of the wolf in Montana was contingent upon Idaho, Yellowstone, and

Alberta. REP. REAM said delisting was dependent only on Idaho and Yellowstone. Delisting will occur when there are 10 breeding pairs in each of the three recovery areas.

REP. BOB CLARK asked REP. REAM if the remains of an animal discovered in Yellowstone was a wolf. REP. REAM said it was wolf-like in size and skull characteristics. Two questions raised were whether it may have been a wolf that someone dropped off or if it was a wolf-dog hybrid. More testing will be done.

REP. DICK KNOX stated the criteria were achieved for the grizzly bear six years ago and it still has not been delisted. He asked REP. REAM how the delisting will be handled for the wolf. REP. REAM explained the grizzly bear has slower reproduction rates than the wolf and that politics were involved. It may be easier to delist the wolf because they are able to maintain their population levels.

REP. MARION HANSON asked REP. REAM if he knew how many wolves were in Minnesota, Wisconsin, and Michigan. REP. REAM reported there were approximately 1,200 wolves in Minnesota, 100 in Wisconsin, and 20 in the upper peninsula of Michigan. The main population in that area of the United States is in the northeast corner of Minnesota.

REP. BRAD MOLNAR asked Mr. Roger Neimeyer, Animal Plant Health Inspection Services if he found an adult wolf fighting with a grizzly bear cub, which one would he shoot. Mr. Neimeyer had no comment.

REP. EMILY SWANSON asked REP. REAM for an update on the status of the reintroduction of wolves into Yellowstone. REP. REAM reported that the status was in limbo. The Environmental Impact Study (EIS) will be completed by the end of June. The EIS will cover how to go about reintroduction. He speculated they would return on their own.

EXECUTIVE ACTION ON SJR 3

Motion: REP. REAM MOVED SJR 3 DO PASS.

Discussion:

REP. REAM distributed a copy of proposed amendments (EXHIBIT 11). He met with the Department and a representative of the Montana Stockgrowers Association. He believed the amendments satisfied both parties. Amendments one and two simplify the bill title. Amendment three takes out the term "multiple-use" on page 2, line 16. This amendment encourages the state wildlife management agency to complete a big game population study but not a multiple use study. Amendment four requests the federal agency to analyze the impact of wolf recovery on other land uses. Amendment five urges continued federal funding of a wolf specialist in Montana.

Motion: REP. REAM MOVED THE AMENDMENTS DO PASS.

Discussion:

CHAIRMAN MIKE FOSTER asked REP. REAM about amendment number five. REP. REAM explained that it would be inserted on page 3, line 1, and it is just a further resolution. It strongly encourages the Animal and Plant Health Inspection Service to continue funding of a wolf specialist in the Animal Control Division in Montana.

REP. HIBBARD asked REP. REAM why "multiple-use" was struck on page 2, line 16. REP. REAM explained the way it was worded implied the Fish, Wildlife, and Parks Department would have to do the multiple-use studies. The Department did not feel it was their responsibility. REP. HIBBARD asked REP. REAM to repeat who the amendments were reviewed with. REP. REAM said they were reviewed with the Montana Stockgrowers Association and the Fish, Wildlife, and Parks Department.

REP. WAGNER stated the Department currently does multiple use studies in other areas, including snowmobiles. He believed the multiple-use language was inserted so that the impact of wolf recovery would be considered on the livestock and ranching industries as well as other industries and recreational activities. He asked REP. REAM for his comments. REP. REAM said the new language shifts that responsibility from the Department to the federal agencies. He saw little need for any alterations of land management because of wolf recovery. REP. WAGNER agreed but thought that the state would be able to handle it better. He felt the federal government may not have as much concern.

REP. KNOX stated he also felt the program would be managed better on a state level.

CHAIRMAN FOSTER asked if Mr. Elser could give further explanation of the amendments. Mr. Elser said he had not been involved with Mr. Pat Graham, Director of the Fish, Wildlife, and Parks Department and his discussions with REP. REAM. Their concern was conducting the multiple-use studies by their agency. Outside consultants were hired to complete the EIS for snowmobiles. They do not have the expertise to perform such a study. The Department would be willing to cooperate with the federal agency.

REP. SWANSON felt the amendments offered by Mr. Graham in his written testimony may work better.

REP. KNOX asked Mr. John Bloomquist, Montana Stockgrowers Association for comments. Mr. Bloomquist stated their organization was comfortable with the original language of the bill. They felt that the issue was not just a fish and game issue. Because of the nature of the Endangered Species Act, it affects land use around Yellowstone. He felt federal agencies should look at the impact of wolf recovery on other states.

REP. REAM remarked the list of resolutions deal with wolf and big game populations, habitat, and a predator control agent. He did not strike "multiple- use" on page 2, line 24. He suggested amendment three could be segregated. However, he would argue against doing so because these are a compromised set of amendments.

REP. HIBBARD felt that the main purpose of SJR 3 was to encourage return of the management of wolves and their habitat to the state wildlife agency. He believed state agencies should handle the studies because the process could be better monitored on a state level. There is no guarantee federal funding will continue.

Vote: AMENDMENTS DO PASS. Motion carried 13 to 3 with REPS. ORR, WAGNER, and KNOX voting no.

Motion: REP. REAM MOVED THE RESOLUTION BE CONCURRED IN AS AMENDED.

Discussion:

REP. REAM explained the Department's amendments were not needed because their concerns are taken care of in his set of amendments.

REP. WAGNER believed SJR 3 was a good resolution and he supported it.

REP. KNOX declared his support of SJR 3. He expressed his concerns about adequacy of the delisting process. He felt livestock interests are not adequately protected by the delisting language or other local multiple-use interests.

Vote: SJR 3 BE CONCURRED IN AS AMENDED. Motion carried 15 to 1 with REP. ORR voting no. REP. REAM will carry the resolution.

EXECUTIVE ACTION ON SB 199

Motion: REP. BILL RYAN MOVED SB 199 BE CONCURRED IN.

Discussion:

REP. KNOX stated he would honor his commitment to support SB 199.

REP. WAGNER declared his opposition to SB 199. He felt the Department has sufficient habitat.

REP. MOLNAR stated he would vote in favor of SB 199.

Vote: SB 199 BE CONCURRED IN. Motion carried 13 to 3 with REPS. WAGNER, ORR, and CLARK voting no. REP. MOLNAR will carry the resolution.

ADJOURNMENT

Adjournment: 5:30 p.m.

Mike Foster

REP. MIKE FOSTER, Chair

Mary Riitano

MARY RIITANO, Secretary

ML/MR

HOUSE OF REPRESENTATIVES

FISH & GAME

COMMITTEE

ROLL CALL

DATE

3/9/93

NAME	PRESENT	ABSENT	EXCUSED
VICE-CHAIRMAN CHASE HIBBARD	✓		
VICE-CHAIRMAN BOB REAM	✓		
REP. BARNHART	✓		
REP. CLARK	✓		
REP. DAILY	✓		
REP. ELLIOT	✓		
REP. GRIMES	✓		
REP. HANSON	✓		
REP. KNOX	✓		
REP. MCCARTHY	✓		
REP. MOLNAR	✓		
REP. ORR	✓		
REP. RYAN	✓		
REP. SWANSON	✓		
REP. WAGNER	✓		
CHAIRMAN MIKE FOSTER	✓		

HOUSE STANDING COMMITTEE REPORT

March 10, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that
Senate Bill 199 (third reading copy -- blue) be concurred in .

Signed: Mike Foster
Mike Foster, Chair

Carried by: Rep. Schye

Committee Vote:
Yes 12, No 3.

541342SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 10, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Joint Resolution 3 (third reading copy -- blue) be concurred in as amended.

Signed: 
Mike Foster, Chair

And, that such amendments read:

Carried by: Rep. Ream

1. Title, line 7.

Following: "THE"

Insert: "NECESSARY"

2. Title, lines 7 through 18.

Following: "TO" on line 7

Strike: remainder of line 7 through "HABITAT" on line 18

Insert: "THE STATE OF MONTANA"

3. Page 2, line 16.

Strike: "MULTIPLE-USE AND"

4. Page 2, line 18.

Following: "RANGE"

Insert: "and that those federal agencies analyze the impacts of wolf recovery on other land uses"

5. Page 3, line 1.

Insert: "(3) That the U.S. Department of Agriculture Animal and Plant Health Inspection Service be strongly encouraged to continue funding of a wolf specialist in their Animal Damage Control Division in Montana."

Renumber: subsequent subsections

-END-

Committee Vote:
Yes 15, No 1.

541343SC.Hpf 21

EXHIBIT
DATE 3/19/93
9B 418

B-2—Missoulian, Wednesday, February 26, 1993

MONTANA

Tribes upset by dismissal of joint-license case

By RON SELDEN
for the Missoulian

PABLO — The recent dismissal of criminal charges against a Charlo man who challenged the validity of a joint state-tribal Flathead Reservation hunting license drew fire Tuesday from the Confederated Salish and Kootenai Tribes.

"In my opinion, I think the whole thing was a set-up from the start with the help of the Lake County Attorney's office," said Tribal Chairman Mickey Pablo. "I think a 3-year-old could have gotten a conviction."

Last Oct. 12, the opening day of season hunting season, Del Palmer, 72, was cited by warden Rick Schoening for

violating a 1990 agreement between the Montana Department of Fish, Wildlife and Parks and the tribes over non-Indian hunting and fishing.

In an interview with the Missoulian, Palmer said he deliberately refused to buy the state-tribal hunting license that was created under the agreement because he believes the compact is "illegal and unconstitutional."

Instead, Palmer said he bought a regular state conservation permit and a state bird permit before he went hunting in front of Schoening on a neighbor's private land.

"I set myself up to be cited," Palmer said. "I'm a law-abiding citizen, but I felt I couldn't abide by a law that violates my

constitutional rights."

Palmer is a board member of All Citizens Equal, a reservation group that opposes tribal jurisdiction over non-Indians and private land.

While Schoening said about a dozen other people cited for similar offenses received fines after pleading guilty in Lake County Justice Court, Palmer fought the citation and demanded a jury trial.

In January, County Attorney Larry Nistler amended the charge to a misdemeanor count of hunting without a valid state-tribal license, records show. Defense attorney Jim Manley argued that Palmer held all necessary documents.

Nistler moved to dismiss the charge on Feb. 14. He said he based his decision on

a state regulation that allows people 62 or older to possess only a state conservation permit if they want to hunt or fish.

In 1991, however, joint state-tribal regulations for the Flathead Reservation did not include the license exemption for senior citizens, even though state regulations contained the clause for off-reservation lands. New reservation rules, set to go into effect March 1, now include a similar clause, except senior citizen must have a tribal-use permit, rather than a state recreation permit.

"I didn't see it as a valid use of the state's time over a technical point like this," Nistler said Monday.

Bob Lane, chief attorney for Fish, Wildlife and Parks, said his department

had pushed for Palmer to be prosecuted. The state Attorney General's office also favored prosecution, other sources say. County attorneys, however, have considerable discretion over what cases they want to pursue, Lane said.

"We had urged and hoped that (Nistler) would prosecute," he said. "Our belief is that we have to uphold the agreement. (But) our position is that the dismissal doesn't affect the validity of the agreement or future citations."

"To me, it looked like a black-and-white, clear-cut case," Pablo said Tuesday. "This looks like a bad-faith effort on the part of the county. This just shows how hard it is to work with Lake County on issues like cross-deputization."

Access rules don't please all

By BOB ANEZ
Associated Press

HELENA — Regulations governing public use of millions of acres of leased state land were given preliminary approval Monday, but sportsmen and leaseholders said they still are not happy with the result.

The state Land Board approved controversial last-minute changes in the proposed rules and will take final action March 6.

Although both sportsmen and lessees got their way on some of the changes, representatives of each group left the board meeting dissatisfied.

"We feel there's a lot of pitfalls," said Tony Schoonen of Ramsay, secretary of the Coalition for Appropriate Management of State Land.

Nothing in the regulations prevents those leasing state land from hindering those who have a right to hunt and fish on such property, he complained. He also said the rules will be hard to understand.

"Recreationists are not willing to recognize the rights of lessees," responsible for care of land they lease, said Jim Peterson, executive vice president of the Montana Stockgrowers Association.

He was especially critical of the board's 3-2 decision to remove a provision requiring those licensed to use state land show their permit to a leaseholder on demand.

Gov. Stan Stephens and Auditor Andrea "Andy" Bennett took the position of leaseholders, most of whom are ranchers using land for grazing.

Although sportsmen said license checks are an enforcement function best handled by game wardens, Stephens said a lessee should be able to determine who is on his leased land and whether a person is there legally.

But Attorney General Marc Racicot said the state cannot count on that happening and should not encourage confrontations between the leaseholder and sportsman. His position was supported by Secretary of State Mike Cooney and Superintendent of Public Instruction Nancy Kennan.

House fire looks suspicious

A fire that burned the outside corner of a home at 1755 S. 11th St. W. on Tuesday may have been arson-caused, said Dick Larson, the city's assistant fire marshal. There is a suspect in the fire who city police want to question.

Larson said there was a smell of gas around the fire site. Some combustibles — "a little stack of wood" — were found by the side of the house, said Jan Peterson, a friend of Debbie Placzekiewicz, who rents the house with her son.

Peterson, who was alone in the house, said he heard an explosion but couldn't find any cause for it. He didn't see anything or anybody



DATE 3/9/93

SB 418

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

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**Confederated Salish
& Kootenai Tribes**

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**Flathead Reservation Fish & Wildlife Board**

Rod Johnson, Chairman

P.O. Box 1122
Polson, MT 59860

February 19, 1993

Senate Judiciary Committee for SB418
Capitol Station
Helena, MT 59620

Dear Judiciary Committee:

I have served on the Flathead Reservation Fish & Wildlife Board since its inception and currently act as chairman. The board exists pursuant to agreement between the State of Montana and The Confederated Salish and Kootenai Tribes. Prior to the agreement there was alot of confusion among the hunting and fishing public, primarily due to duel and inconsistent licensing, regulations, limits, seasons etc. As an outfitter licensed by the State of Montana (to conduct operations off reservation) I recognize the importance of a clarified system to help avoid as much confusion as possible. I believe that SB418 will help in eliminating confusion and provide better clarity, which is needed in light of the recent acquittal in the Del Palmer case. A great deal of progress has been made by this board and it would be unfortunate to see that progress go to waste and even more unfortunate to see a return to the old system of confusion. Therefore, I do strongly support the passage of SB418. Thank you for the opportunity to comment on this issue.

Sincerely,

A handwritten signature of Rod Johnson in dark ink.

Rod Johnson



MONTANA COUNCIL

Ric Smith
Box 1638
Polson, Mt. 59860

EXHIBIT 3
DATE 3/9/93
SB 418

February 19, 1993

Senator Steve Doherty
Senate Judiciary Committee
State Legislature
Helena, Mt. 59601

Re: Support of SB 418

Senator Steve Doherty:

Trout Unlimited worked hard for the passage of HB 446. We strongly believed that fishery resources were suffering due to jurisdictional questions. Management decisions and enforcement were non-existent or lax at best.

Since the passage of HB 446, management agencies have worked together in the interest of the Fish and Wildlife resources on the reservation.

Trout Unlimited strongly supports SB418 because it will resolve some apparent "loopholes" which allowed a recent game violation to be dismissed.

SB 418 will allow co-operation to continue to the betterment of the resource and the people who enjoy these resources.

Please support SB 418.

Sincerely,

Ric Smith
Vic-Chair
Montana Council

RS/rec

SB 418
March 9, 1993

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

The State of Montana, through the Department of Fish, Wildlife & Parks, and the Confederated Salish and Kootenai Tribes have a historic joint agreement for the management of fish and bird resources on the Flathead Indian Reservation. This agreement was not easily negotiated and approved. The effort required the development of mutual respect and trust forged by government-to-government interaction.

The road to this agreement was at times rough; however, the extra effort during the difficult times strengthened the final product. The joint agreement is the result of several years of negotiations resulting in final approval that resolved difficult and complex litigation contesting jurisdiction over hunting and fishing on the reservation.

Throughout the negotiations, the department and tribes concentrated on two mutual objectives -- to protect the resource and to simplify regulations for sportsmen and women. The joint agreement continues that tradition. We now have two successful license years under the joint agreement. Hunters and anglers no longer have to deal with the confusion of two licenses and two sets of regulations by two different governments, both claiming jurisdiction. There is now one joint license and one set of commonly adopted regulations, along with uniform enforcement. And, the resource itself is the beneficiary.

A problem has surfaced, however, that the state would be wise to address. There have been difficulties in prosecuting an individual who has refused to buy a joint license. The Lake County attorney has felt there are inconsistencies between the statute authorizing joint agreements, Section 87-1-228, MCA, and the generally applicable licensing statutes found elsewhere in Title 87. The county attorney has been reluctant to prosecute under the present statutes.

A recent prosecution through the Attorney General's Office for a misdemeanor failure to have a joint license ended in a jury acquittal. The jury may have been influenced by the defense counsel's claim that the statutes were confusing as to which license is required for a nontribal member - a joint license or a state license.

SB 418 would make it clear that joint license and permit requirements for hunting and fishing on the reservation supersede the general licensing requirements. This amendment is both symbolic and practical. It will enhance and strengthen the joint agreement and our working relationship with the Confederated Salish and Kootenai Tribes. It will also strengthen enforcement and the state's capability to prosecute for licensing violations of the joint agreement.

The department supports SB 418.

SB 418 Information.

On the surface this bill seems to be innocuous and very matter of fact, but with a deeper look the following is of concern to Montana Taxpayers.

Montana Taxpayers pay for the propagation, feeding, care and habitat and enforcement of pheasants and pheasant hunting on private Montana Taxpayer lands and Montana Taxpayer owned state lands. The CSKT does none of these things on private and state lands.

Montana Taxpayers should get the dollars from this bird sport on their properties.

Montana Taxpayer ranchers and farmers who furnish habitat feed etc. for these non-native birds on their own private property, rightly feel that they wish to buy Montana permits so that the well earned rewards go back to the Montana Taxpayers.

Montana Taxpayers desires were aired in court in December, 1992, Montana vs. Palmer and a jury decided in Palmer's favor. UNANIMOUSLY! This Montana Taxpayers license dollars went where they should rightly be and it should be added that Al Elser of Fish & Game testified for this losing argument in that Palmer jury trial!!

Fish & Game will tell you that SB 418 is merely closing "a loop hole" or "inconsistency," but that is not the case at all!! .. Montana law, as it is, is just fine and it takes precedence over regulations. Always has and hopefully, always will!!

So, the bottom line is this: Should the funds derived from the Montana Taxpayers and also from a state-of-Montana resource, be properly returned to Montana, rather than to a very, very, wealthy entity that isn't even involved with the feeding, propagation or habitat provision of this non-native Montana resource??

Montana Taxpayers urge you to say "NO" to SB 418 and leave the regulations and laws "AS IS."

Thank you,

Stan Ryan

Stan Ryan

71328 Hwy 93
Polson, MT 59860

Line 8 Section C of SB-418

Should be amended to read:

(c) allowing the hunting of pheasants and migratory water-fowl on private, state and federal lands with the same licenses and stamps as required to hunt anywhere in the State of MT

Reasons to do this:

The state lands around Nine Pipe Reservoir were purchased by all of the sportsmen of the state for the specific purpose of hunting pheasants and migratory water-fowl. They support the counties in lieu of taxes.

The federal lands around Nine Pipes were also purchased with sportsmen's dollars and presently are being managed for water-fowl and pheasant production.

The private lands which contain approximately 80% of the pheasant habitat and 40% of the water-fowl areas were homesteaded lands under the same Homestead Act that led to the development of the west. Some of these lands were also obtained through purchases of Indian allotments.

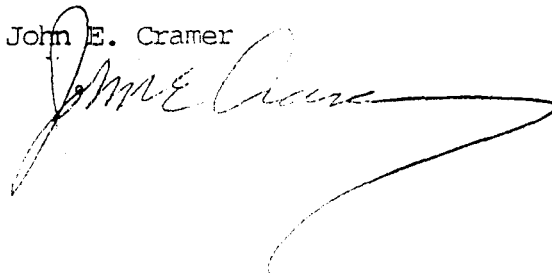
The migratory water-fowl are hunted throughout North America and very few are native exclusively to the reservation. The pheasants are not native to this area and were introduced in the early thirties for the precise purpose to provide hunting opportunities for Montana sportsmen.

For over 50 years, the sportsmen's clubs from around the area have participated in the purchase of these lands and helped in the development of pheasant and water-fowl habitat. They should not be required to pay the tribe for the privilege of hunting on these lands. The very lands and birds that they have help to develop and nurture over the years.

This would have the additional benefit of saving the Department of Fish, Wildlife & Parks money by eliminating the need for a totally new licensing procedure and add additional income of approximately \$250,000 a year to its budget. This money could be used for a conservation easement on tribal lands and provide for habitat development by the state.

I urge you to consider this amendment and provide for equal hunting opportunities for all sportsmen of the state.

John E. Cramer



391 LaBella Lane
Polson, MT 59860

To the Fish Committee regarding
S.B. 418.

I have been a resident of the
Area for more than 60 yrs. Our ranch
has been home to three generations.

The ranch shares a common boundary
with State owned lands that were
acquired for Public Access and Wildlife
habitat. For many years I have practice
good Conservation practices as many
other landowners have. Some of my
practices include the following. I have
built dams creating large ponds, one
which created 4 acres of water for the
State at no cost. included were several
islands for nesting waterfowl. I have
set aside permanent habitat planting
trees and shrubs and have been active
in helping plant trees and install goose
nest on State Lands. As other farmers
often do I have fed pheasants each winter
during times of stress. For my effort
I was awarded Conservation Farmer
of the year. I am pleased to have
had the opportunity to develop this farm
as I have and to share it with others.

In 1991 I was cited for not having
the Tribal permit while I was in possession
of all license and stamps required of
Sports men to use State, private and
Federal Lands across the State.

The State Attorney General has the State

Again on OCT 17, 1992 I was cited
on my own farm for not possessing
a Tribal Stamp while hunting Ring Neck
pheasants (not native to the area.) I was
forbid by the warden to continue the
hunt untill I was tried. The trial
date was on the last day of season
before a jury. I was forbid to mention
the Constitution. even though mine was
clearly a Constitutional issue. had my
skin been red there would have been
no arrest. The jury in twenty minutes
found me Not Guilty. the defense attny.
haded me a bill for \$1376⁰⁰ and I lost
my priviledge be for I was ever tried.

Again I had all uniform License and
stamps. The hunting agreement with
the Tribe was developed in secrecy
and behind closed doors. (Contrary to
State open meeting Law. S.B. 418
would provide that this questionable
agreement supercede State Law if
not amended. May I Quote a few
lines from our great Constitution. "The
U.S. Constitution is the Supreme Law of
the Land and any Statute to be valid
must be in agreement." Article
I Sec 10 "No state shall enter into
any Treaty Alliance or Confederation"
Article 4 "The Citizens of each State
shall be entitled to all privileges and
immunities of Citizens in the several States"

As one of many Rancher
and Sportsman who reside within
the exterior boundaries of the
Flathead Reservation, I have tried to
be a good Neighbor to the State.

I feel the State neglected to protect
our Sportsman and landowner rights
when the agreement was being developed.

I urge the Amendment be
incorporated in S.B. 418 or that
S.B. 418 Not Pass

Signed
Del Palmer

Phone 644-2770

P.O. Box 55

Charlo, Mont

59824

DATE 3/9/93
313

R. Ream
January 21, 1993

Senate Fish and Game Committee

- 1870-1900 - Bison exterminated and all other big game populations reduced to extremely low numbers. Predators increase.
- 1880-1910 - Livestock numbers increase dramatically - wolves in direct conflict. Territorial legislature passes bounty.
- 1936 - Last wolf taken by a government trapper.
- 1950-1970 - Occasional wolf killed in MT, probably dispersers from Canada.
- 1974 - Northern Rocky Mountain Wolf (superspecies of Gray Wolf) listed by USF&WS as endangered in northern Rockies. Recovery team appointed by Director of USF&WS.
- 1978 - Gray wolf listed as endangered in lower 48 states and downlisted as threatened in Minnesota. First recovery plan completed by recovery team.
- 1987 - Recovery plan completed and approved by Director USF&WS.
- 1987 - First wolf depredation on livestock near Browning. Two other depredation situations at Marion and Dixon since. All situations wolves removed from area by federal ADC.

Wolf research and monitoring through UM.

- 1973-79 - Survey work to determine presence or absence of wolves in Montana. Reports due to dispersers from Canada.
- 1979 - First wolf captured 5 miles north of GNP (Glacier National Park). Was lone adult female. Tracked for 18 months.
- 1981-1982- Black male wolf appears autumn 1981, apparently joins female and litter of 7 born in 1982, 4 miles north of GNP.
- 1985 - Magic Pack of 6 wolves has litter of 7 pups just north of GNP but pack moves into GNP in November after 1 shot.
- 1986 - First litter of pups born in GNP and first documented anywhere in west in over 50 years.
- 1985-1993 - Wolf population in North Fork (Canada & U.S.) increases to 4 packs of 40-42 wolves.
- 1985-1991 - 229 wolf kills examined are 60% white-tailed deer, 30% elk, 7% moose, and 3% mule deer.
- 1990-1992 - 30 adult female: white-tailed deer, elk, and moose radio-collared to help establish populations and to determine causes of mortality. Mountain lion major predator, wolves and bears equal but lesser. PRELIMINARY!

**CAUSE SPECIFIC MORTALITY STUDIES
OF ADULT FEMALE UNGULATES
IN THE
NORTH FORK FLATHEAD RIVER DRAINAGE**

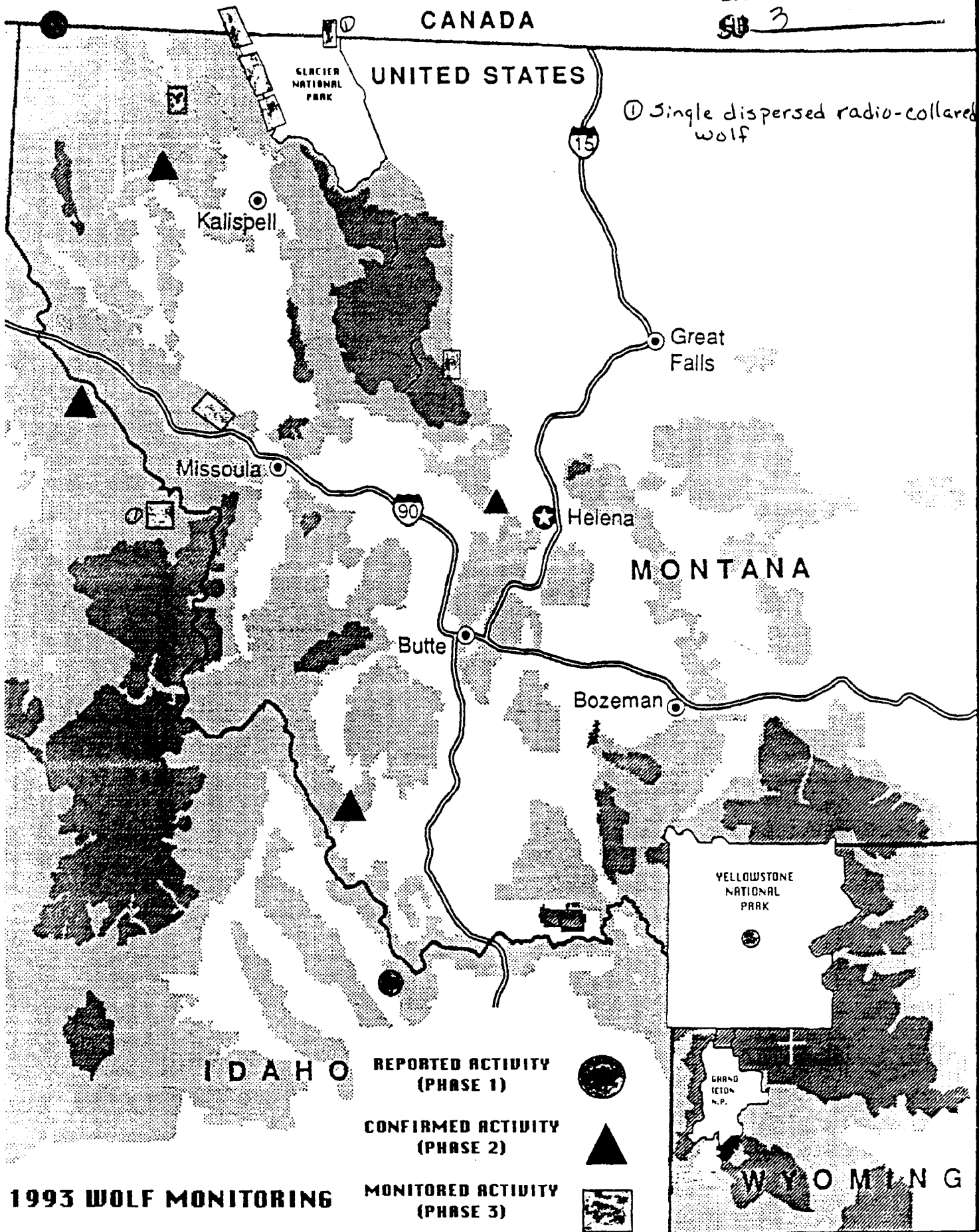
EXHIBIT 9
DATE 3/9/93
~~SA~~ 3

SPECIES	MORTALITIES	CAUSE	TOTAL
DEER			
(1989-36)			
(1993-04)			
40	4	MT LION	
	4	WOLF	
	2	BEAR	
	3	COYOTE	
	2	HUMAN	
	1	UNKNOWN PREDATOR	
	1	UNKNOWN	
	1	OLD AGE	
			18
ELK			
(1989-33)			
(1993-05)			
38	9	MT LION	
	2	WOLF	
	2	GRIZZLY BEAR	
	3	HUMAN	
			16
MOOSE (35)			
	3	GRIZZLY BEAR	
	1	WOLF	
	1	UNKNOWN (NOT PREDATOR)	
	2	HUMAN	
			07

THE UNIVERSITY OF MONTANA'S UNGULATE MORTALITY STUDIES BEGAN IN 1989. MONITORED DEER, ELK, AND MOOSE LIVE IN THE SAME AREA WHERE 4 WOLF PACKS (30-40 WOLVES) ARE BEING MONITORED. ADDITIONAL UNGULATES WERE RADIO-COLLARED IN 1993.

3/5/93

EXHIBIT
DATE 3/9/93
SUB 3



Amendments to Senate Joint Resolution No. 3
Blue Reading Copy

Requested by Rep. Ream
For the Committee on Fish & Game

Prepared by Doug Sternberg, Council Staff
March 9, 1993

1. Title, line 7.

Following: "THE"

Insert: "NECESSARY"

2. Title, lines 7 through 18.

Following: "TO" on line 7

Strike: remainder of line 7 through "HABITAT" on line 18

Insert: "THE STATE OF MONTANA"

3. Page 2, line 16.

Strike: "MULTIPLE-USE AND"

4. Page 2, line 18.

Following: "RANGE"

Insert: "and that those federal agencies analyze the impacts of
wolf recovery on other land uses"

5. Page 3, line 1.

Insert: "(3) That the U.S. Department of Agriculture Animal and
Plant Health Inspection Service be strongly encouraged to
continue funding of a wolf specialist in their Animal Damage
Control Division in Montana."

Renumber: subsequent subsections

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

FISH & GAME

COMMITTEE

SB 418
BILL NO.

DATE 3/9/93 SPONSOR(S) Doherty

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Deanne Sandholm	Attorney General (Governor)	✓	
GEORGE CCHENSKI	CONF. SALISH-KOOTENAI	✓	
ALCESEK	FISH, WILDLIFE & PARKS	✓	
Pat Smith	Salish-Kootenai Trib.	✓	
Stan Bradshaw	MT. TRIB.	✓	
ERVIN DAVIS	MYSELF		✓
Bill Palmer	My Self		✓
John E. Cramer	Self		✓

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