

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By Senator Bob Pipinich, Chair, on March 11, 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. Don Bianchi (D)
Sen. John Brenden (R)
Sen. Chris Christiaens (D)
Sen. Gerry Devlin (R)
Sen. Judy Jacobson (D)
Sen. Terry Klampe (D)
Sen. Kenneth Mesaros (R)

Members Excused: Sen. Bruce Crippen (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 338, HB 341
Executive Action: None.

HEARING ON HB 338

Opening Statement by Sponsor:

Representative Bob Ream, House District 54, stated at the end of the last legislative session, Governor Stephens convened an ad hoc committee to study the game farm issue. The committee consisted of representatives of the game farm industry, the Montana Wildlife Federation (MWF), the Department of Fish, Wildlife & Parks (DFWP) and the Department of Livestock. The result of that committee was HB 338. Representative Ream stated HB 338 would provide the tools necessary for the DFWP and the Department of Livestock to carry out the task of regulating the

game farm industry. Representative Ream stated Heidi Youmans, DFWP, who did research on the subject of game farms, was present and would be available for questions.

Proponents' Testimony:

Bob Lane, DFWP, distributed copies of information on game farms (Exhibit #1) and spoke from prepared testimony in support of HB 338 (Exhibit #2).

Cork Mortensen, Executive Secretary, Board of Livestock, spoke from prepared testimony in support of HB 338 (Exhibit #3).

Les Graham, representing the Montana Game Breeders Association (MGBA), stated he agreed with what previous proponents had said and HB 338 fits in with SB 57, which was introduced by Senator Swift. Mr. Graham stated MGBA is in support of HB 338.

Janet Ellis, representing the Montana Audubon Legislative Fund, stated she supported HB 338, but she did have some concerns. One concern is about page 9, Section 5, lines 1-4. Ms. Ellis stated this part of HB 338 doubles the fees the game farms are charged. Ms. Ellis stated the industry is not carrying its weight as far as what it costs to regulate it. Ms. Ellis said she wanted to go on record as stating the fees are not adequate and should be raised. Ms. Ellis stated the second concern was about page 20, Section 15, which deals with the right to an administrative hearing on the denial of a game farm license. Ms. Ellis stated HB 338 does not indicate what the public's role is in the public hearing process. Ms. Ellis said when this question was raised in the House, she was told that the public hearing process would come under the Montana Environmental Policy Act (MEPA) compliance by the DFWP. Ms. Ellis stated under MEPA, if an environmental assessment is done, the public does not necessarily get the opportunity for a hearing.

Stan Bradshaw, representing the Montana Bowhunters Association, urged the Committee's support of HB 338.

J.V. Bennett, representing MWF, stated he supported HB 338 and submitted written testimony (Exhibit #4).

Opponents' Testimony:

Ron Bennett, representing himself, spoke from prepared testimony in opposition to HB 338.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Klampe, referring to the fiscal note, asked Representative Ream why the fees were not being raised commensurate with the costs. Senator Klampe asked why the hunters should have to pay for a free-enterprise game farm. Representative Ream directed the question to Bob Lane, DFWP. Mr. Lane stated the ad hoc committee did address the issue of fees, but they did not have enough time to present, to this legislature, an increase in fees. Mr. Lane stated the committee thought there should be a sliding scale to make the fees equitable to various sized game farms, but they did not have the data necessary to make a decision everyone would be comfortable with.

Senator Klampe asked why the extra cost will be carried by the hunters, taxpayers, etc. Mr. Lane stated when this legislation was drafted, the committee did not have the fiscal note before them, nor did they have the background information. Mr. Lane said the committee's greatest concern was not about the dollar amount, but about the potential damage that could be done if game farms were not properly regulated. Mr. Lane stated the area of fees is a valid concern and the committee intends to address this area within the next few years.

Senator Pipinich asked Bob Lane if the \$45,353 for the fiscal year 1994 would come out of DFWP. Mr. Lane said, "yes." Senator Pipinich stated the game farmers should pay that amount. Mr. Lane stated this would be a judgement by the Legislature, but based on the compromise within the ad hoc committee, he could not make representation of what would be appropriate.

Senator Mesaros asked Bob Lane why harvest by hunting has been deleted from HB 338. Mr. Lane stated there had been a requirement for shooting tags, but the way the industry is regulated now, the critical factor is the inspection by the Department of Livestock whenever an animal is killed. Mr. Lane stated there was no longer a purpose in requiring shooting tags. Senator Mesaros asked Mr. Lane if it is legal to shoot an elk on a game farm. Mr. Lane stated game farm animals are private property of the game farm rancher, and they can shoot the animals anytime they so desire.

Senator Christiaens asked Bob Lane if the reporting, which is required of the game farm ranchers, is too extensive. Mr. Lane stated the reason the reporting times were changed was because there would be better control over the industry if the reports were submitted three times a year as opposed to once. Senator Christiaens asked Mr. Lane what the reports contain. Mr. Lane stated the reports include information about the number of each species purchased and from whom purchased, the number of game farm animals transferred or sold and the date of transfer or sale, the name and address of the person the animal is sold or transferred to, and the identification of each animal purchased,

transferred or sold. Mr. Lane stated it is critical to trace what happens to game farm animals to effectively regulate the industry and make sure the ranchers are not stealing animals from the wild.

Senator Beck asked Mr. Lane how many game farms there are in Montana. Mr. Lane stated there are presently 102 game farms in Montana. Senator Beck asked Mr. Lane about how many "bad" game farm operators there are in Montana. Mr. Lane stated there are a number of ongoing investigations being conducted by the DFWP, and there is concern over about 10% of the operators in the state. Senator Beck asked about the average number of animals in a game farms. Heidi Youmans stated an average is not really meaningful in this case. There are quite a few people who have one to five animals, and there are others who may have four to five hundred. Senator Beck stated doubling the fees would be difficult for the rancher who owns four or five animals.

Senator Beck asked Mr. Lane if an environmental impact statement (EIS) would be required for all new applicants. Mr. Lane stated an EIS would not be required for all applicants. Mr. Lane said an EIS is done only when a particular game farm would make an impact on the environment. Mr. Lane stated normally an environmental assessment is used as a checklist to make sure there are no problems. The assessment could range from a very simple one to a more detailed analysis which would tell the Department whether or not an EIS is needed.

Senator Beck asked Mr. Lane what the difference is between a minor and a major game farm. Mr. Lane stated a minor game farm could be a farm in an area in which there are not native species of the same type as those on the game farm in an area in which there would not be security problems. A major game farm could be one in which the farm was large or there exists a population of native species the same as that which is on the game farm.

Senator Beck stated there are no specifications in HB 338 as to how a game farm will be classified and when an EIS will be done. Mr. Lane stated those specifications are already in statute.

Senator Bianchi asked Mr. Lane who pays for the EIS. Mr. Lane stated the applicant pays for the EIS.

Senator Bianchi asked Ron Bennett if he didn't think better regulation of game farms was the next best thing to a moratorium on game farms. Mr. Bennett stated the state needs to start somewhere, but he did not think HB 338 was the place to start.

Senator Klampe commented to Mr. Lane that it appears from the fiscal note that the applicant would not pay for the EIS. Mr. Lane stated with the environmental analysis, the only thing the applicant can be charged for is the EIS. Mr. Lane stated all the applications will not require an environmental analysis. The environmental assessment would determine if an analysis should be

done. Senator Klampe stated the cost of the EIS is reflected in FTE. Mr. Lane stated that was a good analysis of the fiscal note, and it is something that can be improved in the note. Mr. Lane stated the .38 FTE would be dealing with the preparation of the environmental analysis of all 24 applicants. Mr. Lane stated the fiscal note would be better had it reflected the fact that some of those fees could be charged to the applicant on a sliding scale.

Senator Devlin asked Les Graham what his comments were on this issue. Mr. Graham stated he agreed with what Mr. Lane said and the whole issue of fees has been addressed. Mr. Graham stated there are game farms which the Department may never have to inspect in person. Mr. Graham stated the issue of fees will continue to be addressed by the parties involved.

Senator Pipinich asked Representative Ream, Bob Lane and Les Graham if they would get together with the Committee's legal council to work out some of the problems stated at the hearing. All three gentlemen stated they would be willing to do so.

Senator Beck asked Bob Lane how the game farms are being handled now. Mr. Lane stated environmental reviews will not be done on existing game farms. Senator Beck asked if it was realistic to expect 24 new applications a year. Mr. Lane stated that was the present rate.

Senator Pipinich asked Representative Ream if it could be worked out so the sportsperson would not be paying the \$45,000. Representative Ream stated something could be worked out.

Closing by Sponsor:

Representative Ream requested the right to close at another time.

HEARING ON HB 341

Opening Statement by Sponsor:

Representative Hal Harper, House District 44, stated HB 341 is a bill without which the DFWP finds it almost impossible to enforce laws currently on the books against illegal introduction of foreign fish to Montana waters. Representative Harper stated this is one of Montana's biggest management problems in terms of fish. Representative Harper stated currently a person has to be caught in the act of releasing fish in the water in order to be prosecuted for violation of law; however, it is too late to do anything about the alien fish being introduced.

Proponents' Testimony:

Al Elser, DFWP, spoke from prepared testimony in support of HB 341 (Exhibit #7).

Clay Landry, representing Montana Trout Unlimited (MTU), stated there is a need to protect trout fisheries from "bucket biologists". Mr. Landry stated HB 341 is a good step toward protecting the trout fisheries. HB 341 was amended in the House, and Mr. Landry stated MTU supports HB 341 in its present form.

Art Whitney, representing the Montana Chapter of the American Fisheries Society, spoke from prepared testimony in support of HB 341 (Exhibit #8).

Janet Ellis, representing the Montana Audubon Legislative Fund, stated she supported HB 341 but with the same reservations stated by previous proponents.

Opponents' Testimony:

Riley Johnson, representing Walleyes Unlimited, spoke from prepared testimony in opposition to HB 341 (Exhibit #9).

Informational Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Representative Harper stated Mr. Johnson and others had a problem with the statement of intent and perhaps the Committee would want to take a look at that. Representative Harper stated nothing could be done about the introduction of foreign fish to Montana waters without a bill such as HB 341.

ADJOURNMENT

Adjournment: 4:30 p.m.


SENATOR BOB PIPINICH, Chair


KATHY COLLINS, Secretary

BP/kc

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ROLL CALL

SENATE COMMITTEE Lish & Name DATE 3-11-93

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

ON THE
DATE
ON THE
MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

SENATE FISH AND GAME
DATE 3-11-93
BILL NO. HB 338

A GUIDE TO HB 338

COMPILED BY
MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

In July 1992, Governor Stephens directed his staff to appoint a working group to address and resolve controversial game farm issues. In addition to addressing problems pertaining to regulation of the game farm industry, the group was directed to develop needed legislation. The working group on game farms was comprised of Wayne Phillips (Gov.'s office), Jack Salmond and Jim Hagenbarth (Board of Livestock), Bill Fraser, who was replaced by Cork Mortensen (as Executive Secty., Dept. of Livestock), Elaine Allestad and Bill Stratton (FWP Commission), Pat Graham (deputy director, FWP), Les Graham and Ward Swanser (Mt. Game Breeders Assoc.), Dave Majors (MT Wildlife Federation) and Bob Ream (state representative). Personnel from FWP and D. of Livestock served as staff to the working group.

The game farm working group successfully reached consensus on solutions to a number of major game farm problems and agreed on proposed legislation to address those issues. This summary is intended to facilitate review of HB 338, the product of deliberations of the game farm working group.

HIGHLIGHTS OF HB 338

SECTION 1. 87-4-406. Definitions.

(2) Definition for "facilities" added, to encompass perimeter fences, holding, handling and quarantine facilities.
(old 5) -Deleted- because game farm shooting licenses (carcass tags provided by FWP at a cost of \$15 apiece) will be replaced by a certificate of inspection issued by a D. of Livestock brand inspector.

SECTION 2. 87-4-407. License required -- penalty -- seizure.

(2) Clarifies that operation of an unlicensed game farm and possession of, or trade in prohibited animals are violations.
(3) provides for seizure and disposition of illegally held animals.

SECTION 3. 87-4-409. Application for license -- limitations....

(1) "on forms provided" clarifies that application for a game farm license is to be made on a FWP form.
(1)(c) "the name and address of the individual who will be the principal manager of the game farm" - provides a contact person who is responsible for the actual operation of the game farm (especially important in cases of corporate ownership and where the license applicant is located in another state).

(1)(f) in addition to fences, the term "facilities" includes gates, quarantine, holding and handling enclosures. The "location of perimeter fencing" (legal description, plotted on a topographic map or drawn on a scale map) is information that is prerequisite to evaluating the application.

(old 2) - deleted - (replaced by criteria in NEW SECTION 4).

(new 2, a&b) outline the procedure for review of game farm license applications and requires that the department determine within an initial 30-day period whether an application contains all the information needed for evaluation.

(3) the existing 60 day application review period is replaced by 120 days to provide adequate time for MEPA compliance (completion of an environmental assessment). A provision for an additional 180 days is included for the occasional cases that require an EIS for MEPA compliance. The provision to "approve with stipulations" provides a middle ground....rather than limiting decision on a license application solely to approval or denial. "And approval" of fencing added to reflect current practices.

NEW SECTION 4. Criteria for issuance of license - fencing and enclosure requirements.

(1 a - d) outline qualification criteria for a game farm license applicant and his/her principal manager.

(2 a - e) outline criteria for issuance of a game farm license.

(3a - d) outline criteria for denial or stipulations based on site-specific wildlife and habitat factors (modification of Colorado's language).

(3)(e) addresses public safety hazards related to shooting on the game farm premises.

(4) In the event that FWP proposes to deny or to issue a game farm license with stipulations, the applicant is provided an opportunity to propose mitigation measures, to be considered in the final decision.

(5) provides for commission review of the department's proposed decision regarding a game farm license application.

SECTION 5. 87-4-411. License and renewal fees.

Application and renewal fees were increased with the intention that the cost of game farm regulation studied further to ascertain appropriate cost and whether license fees should be prorated on the basis of acreage or total number of game farm animals....or some other basis. As part of further study of the issue, FWP was asked to begin maintaining record of the costs of administering game farm regulations.

SECTION 6. 87-4-412. Term of license - transferability.

(1) License renewal is contingent on compliance with records and reporting requirements.

(2a-e) provide for transferability of a game farm license if the

transferee meets criteria outlined in Section 4(1); the facilities are in compliance with requirements in effect at the time the original license was issued; and if the game farm is not quarantined - with the stipulations that prohibited species cannot be transferred with the game farm license, and the transfer is not used as a means to evade requirements imposed on the licensee.

SECTION 7. 87-4-414. Game farm animals as private property.

- (1) "raised" replaced with "possessed"; "property of the licensee" deleted to eliminate the perception that joint ventures are prohibited - and replaced with "for which the game farm licensee is responsible as provided by law" - to clarify that regardless of who owns individual animals on the premises, the licensee is ultimately accountable and responsible for them.
- (2) "and in any manner" -deleted- as unnecessary and contradictory to other provisions of the statutes and rules.
- (3) provides for marking game farm animals to facilitate animal ownership and individual animal identification
- (old 4) deleted "game farm shooting license" (carcass tag) -- which is no longer necessary due to implementation of tattoo inspections by D. of Livestock.
- (new 4) Game farm animals must be lawfully acquired by the licensee.

SECTION 8. 87-4-415. Transportation and sale of game farm animals - quarantine.

(old 1) and (old 2) replaced with language that conforms with D. of Livestock procedures for domestic livestock (including use of DOL brand inspectors).

SECTION 9. 87-4-416. Sale of game parts, meats and byproducts.

Changed to conform with D. of Livestock procedures (including use of DOL brand inspectors).

SECTION 10. 87-4-417. Records and Reporting.

Reporting requirements were changed from one report per year to three.

SECTION 11. 87-4-422. Rulemaking.

- (1) Provision to accomplish necessary regulatory coordination with DOL.
- (2) Several topics added that have been already been addressed through rule-making.

NEW SECTION 12. Revocation of license -- criteria-- penalties.

(1 a-i) outlines criteria for license revocation. The criteria are intended to identify licensees who do not conduct their operations in a responsible manner.

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(2) includes a distinction between "negligent" and "willful" misconduct. In situations involving negligence, the licensee will be given notice and an opportunity to remedy the misconduct within 30 days.

(3) lists penalties for misconduct, providing a range of disciplinary actions, including revocation (avoids the dilemma of a choice between no discipline and revocation).

(3b) provides for a civil penalty not to exceed \$5,000, restitution for damages caused, or both.

(4) the penalty for a misdemeanor violation of the game farm statutes and rules is set at \$1000 to conform with other fish and game violations.

NEW SECTION 13. 87-4-423. Revocation of license.

(1) - (4) outline a license revocation procedure and a process for disposition of game farm animals in the event of license revocation.

SECTION 14. 87-4-424. Department restrictions on importation of certain species.

Added "habitat degradation or competition caused by feral populations of escaped game farm animals" - (primary reason for importation restrictions on deleterious species such as aoudad, tahr, chamois, wild hogs, etc.)

NEW SECTION 15.

Entitles a license applicant or licensee to notice and an opportunity for a hearing before an impartial hearing examiner under the Administrative Procedures Act upon denial or revocation of a license, denial of renewal, or withholding consent to transfer a license.

NEW SECTION 16. Repeals 87-4-421 Game farm shooting license

Provisions of 87-4-421 repealed because they have been replaced by D. of Livestock procedures using DOL brand inspectors.

NEW SECTION 17.

Codification Instructions.

NEW SECTION 18.

Effective date is upon passage and approval.

OTHER ISSUES CONSIDERED BY THE WORKING GROUP ON GAME FARMS

It was suggested that following passage of game farm legislation during the 1993 legislative session, a working group on game farms should be formulated to accomplish the following: monitor implementation of new statutes and rules; address topics that were deemed to warrant additional study prior to initiating legislative action; and address items that would more appropriately be implemented through rule-making rather than legislation.

OTHER CONCEPTS BROUGHT UP BY THE WORKING GROUP, THAT WERE EITHER NOT RESOLVED, OR DEEMED TO REQUIRE FURTHER STUDY

- The concept of separating game farm licenses into a number of categories or classes to correspond to one or more of the following attributes: 1) primary purpose of the game farm (i.e. commercial, non-commercial), 2) type of operation (breeding stock, antler production, trophy shooting, venison, photography/filming subjects, etc.); 3) acreage; 4) total number of game farm animals; 5) and/or other criteria. FWP will develop an up-to-date data base that documents status quo. (further study)
- A corresponding fee structure (initial license application and renewal) tailored to various types of licenses and commensurate with the relative amount of regulation required for each license type (with fees possibly prorated according to criteria outlined above - or other factors). FWP will track costs incurred in regulation of existing game farms to provide data for further study of this issue. (further study)
- Separate a shooting license (trophy shooting by clients) from a general game farm license (raising of animals for purposes other than shooting), in part to address public safety issues related to shooting on game farms. This might be accomplished through establishment of several categories or classes of game farm licenses. (further study)
- Disposition of the "base number" of wildlife remaining in a new game farm enclosure after all efforts to remove them have failed. (further study)
- Regulation of antler buyers as a deterrent to trafficking in antlers from illegally taken wildlife (further study).
- Eliminating client shooting on game farms altogether (consensus not possible within the working group)
- Imposing importation restrictions on elk from areas where meningeal worm is endemic. (consensus not possible within the working group)
- Federal or state indemnity program to provide reimbursement for game farm animals destroyed due to bovine tuberculosis. (federal program has been proposed)

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**ISSUES BROUGHT UP BY THE WORKING GROUP
THAT MAY BE MORE APPROPRIATELY ADDRESSED THROUGH
RULE-MAKING RATHER THAN LEGISLATION**

The following ideas and needed clarifications surfaced during deliberations of the working group. The language presented here serves only to document concepts that were discussed by the group and to serve as a starting point for future consideration of rule-making. At several times during group discussions, it was suggested that rule-making may be necessary to reflect new statutes. Needs for rule-making may become apparent as revised statutes are implemented and administered.

POSSIBLE RULE-MAKING NEEDS:

12.6.1507 DEFINITIONS Add a definition of escaped, something along the lines of the following:

(16) "Escaped" means occurrence of game farm animal(s) outside the confines of the game farm perimeter fence, and beyond control of, or out of sight of, the game farm licensee or his/her agent.

12.6.1512 NEW SPECIES (1) To add a new game farm animal species that was not listed in the original application, and therefore not contemplated in design of the existing game farm fences and other facilities, the licensee must submit a new application listing the species desired.

12.6.1517 ESCAPED GAME FARM ANIMALS

Replace the 10-day stipulation for recapture of game farm animals and replace it with the term "reasonable", to allow FWP and DOL to make arrangements with the affected game farm operator that are commensurate with the degree of threat that the escaped animal(s) poses to wildlife populations or domestic livestock.....wording something like this:

(3) The licensee must recapture or destroy the animals within a reasonable time period, as determined by the department of fish, wildlife and parks or the department of livestock. Determination of an appropriate, "reasonable" time period shall be based on the degree of threat posed by escaped game farm animals to native wildlife populations and their habitats, and/or to domestic livestock.

(4) If the licensee is unable to recapture the animals within the time period set forth by FWP and DOL as reasonable, they may be destroyed.

(6) The department of fish, wildlife and parks or department of livestock may inspect a recaptured animal before it is moved from the holding facility to the pasture from which it escaped.

(7) In instances where the escape of game farm animals has been unreported, the animals can be destroyed immediately

Additional topics that may need to be addressed through rule-making include: 1) "Fleshing out" criteria for denial of, or

stipulations to, a game farm license based on site-specific wildlife/habitat criteria; 2) Procedures for disposing of seized animals.

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REGULATING GAME FARMS IN MONTANA

This information package contains the following titles:

- 1) **Montana Moves to Set Game Farm Operation Standards**
- 2) **Game Farm Questions and Answers**
- 3) **Western States Attempt to Control Game Farm Animals in the Wild**
- 4) **Hybrid Crosses--A Growing Concern For Wildlife Managers**
- 5) **Montana's Game Farm Rules Prohibit Some Exotic Species Imports**
- 6) **Potential Spread of Diseases and Parasites Concern Officials**
- 7) **Game Farm Sources of Information**

REGULATING GAME FARMS IN MONTANA

MONTANA MOVES TO SET GAME FARM OPERATION STANDARDS

Montana is among several western states and provinces that have or plan to revise obsolete game farm rules and statutes. California, Colorado, Idaho, Nevada, North Dakota, Oregon, South Dakota, Washington, Wyoming, and Utah--and Alberta and British Columbia--are updating game farm regulations in the midst of a game farm industry boom that has emerged to take advantage of:

- new and lucrative markets for breeding stock;
- market potential for meat and other animal products;
- Asian demand for certain animal parts--particularly deer and elk velvet antlers;
- interest in shooting penned animals as "trophies."

Meanwhile, a major Tb outbreak on game farms in Canada and discovery of 13 Tb-infected game farm herds in eight states have heightened concerns among wildlife and livestock agencies.

The need for adequate safeguards for wildlife populations and domestic livestock has prompted wildlife and livestock officials in Montana to institute a four-tier game farm regulation program.

New regulations, which went into effect in May, establish:

- (1) Importation requirements for game farm animals, including disease screening and testing.
- (2) Importation bans on species that have the potential to jeopardize the health of Montana wildlife populations through introduction of disease or parasites, or degradation of wildlife habitat through the establishment of feral populations.
- (3) Clear and uniform record-keeping requirements, including individual animal identification standards.
- (4) Minimum requirements for game farm facilities, including fence and equipment standards designed to best restrain, handle, and quarantine animals.

Left unregulated--or loosely regulated--game farms can place wildlife populations and livestock at risk. The risks include:

- introduction and transmission of disease and exotic parasite infection;
- hybridization and genetic pollution of native wildlife populations;
- habitat competition and degradation resulting from the establishment of feral populations of escaped game farm animals;
- impacts associated with locating game farm facilities in critical wildlife habitats, including obstruction of traditional migration routes and displacement of wildlife from traditional winter ranges.

The history of game farming around the world demonstrates that any one of these risk factors can result in permanent, irreversible damage to native wildlife resources, and the expense associated with damage-control activities can demand substantial diversion of funds from existing wildlife management programs.

- fw&p -

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REGULATING GAME FARMS IN MONTANA

GAME FARM QUESTIONS AND ANSWERS

Q: Why has the State of Montana become suddenly interested in regulating game farms?

A: Under Montana law, FW&P is charged with regulating the *operation* of game farms. The Department of Livestock is charged with regulating the animal health aspects of game farms.

FW&P has been reexamining game farm issues for the past 15 months. Existing administrative rules, as well as game farm statutes, were not adequately addressing risk factors associated with the growing game farm industry. The need for revised rules became apparent when: (1) elk/red deer hybrids were imported to Montana by several Montana game farmers; (2) bovine tuberculosis was detected in five Montana game farm herds; and (3) reports of animal escapes from several game farms.

Q: Who decides how to regulate Montana's game farm industry?

A: A "game farm working group" was formed in 1992. The group included two members of the Board of Livestock, two members of the FW&P Commission, the executive secretary of the Department of Livestock, the deputy director of FW&P, a representative of the Montana Wildlife Federation, a representative from the Governor's office, a legislator, and two game farm industry representatives.

FW&P and the Montana Department of Livestock have worked closely with the group to develop legislation that represents participation and consensus by all affected interests. Proposed legislation developed by the group is designed to aid the appropriate regulation of the game farm industry in Montana.

Q: What does the proposed legislation address?

A: Highlights of the new legislation include: (1) game farm license qualifications; (2) sale and transportation laws; (3) game farm location criteria and minimum facility standards designed to prevent impacts to major migration corridors and seasonal habitat use areas--including big game winter ranges; and (4) procedures for revoking a game farm license in the event of major violations.

Q: Why does Montana need this legislation?

A: First, Montana's wildlife resources are second to none and the state's livestock industry is an integral part of our culture and economy. Because of the threats some game farm practices pose, Montana--like several other Western-state wildlife agencies--sought to establish sound game farm regulations to protect native wildlife populations and the livestock industry.

Second, Montana's wildlife enthusiasts, its livestock industry, *and* its game farmers recognize that the future of game farming is contingent on good and responsible management practices on the part of all licensed game farmers.

- Q: Do current laws allow the state to prevent a game farm license applicant from pursuing a game farm operation in Montana?**
- A:** No. Under existing game farm statutes, the state does not have the authority to deny any game farm application. Granting game farm licenses under current statutes is essentially automatic.
- Q: Will this change if the new legislation is approved?**
- Legislation developed by the governor's working group on game farms establishes specific game farm operator requirements and qualifications. In addition, the legislation would provide FW&P with the authority to deny a game farm license if a game farm is proposed to be located in critical habitats--places where big game animals breed, give birth, rear their young, or winter--or if it would block a major migration route.
- Q: What animals are now being game farmed in Montana?**

<u>Species</u>	<u>Number of Game Farms</u>
Pronghorn Antelope	3
Barbary sheep	3
Black bear	7
Elk	55
Fallow deer	10
Mouflon sheep & hybrids	3
Mountain lion	13
Mule deer	13
Musk oxen	1
Russian boar	1
Sika deer	6
White-tailed deer	8

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REGULATING GAME FARMS IN MONTANA

WESTERN STATES ATTEMPT TO CONTROL GAME FARM ANIMALS IN THE WILD

Because game farm animals have escaped from their enclosures, and wildlife have entered game farms, several Western states and Canadian provinces have adopted measures to improve the regulation of their growing game farm industries.

Listed below are examples of game-farm related problems other states and provinces have experienced. The list is a catalog of the types of problems Montana would like to avoid.

• Canada

- Two-hundred elk "disappeared" from an Alberta game farm. It has not been determined if the animals escaped or if they were illegally transported from the game farm.
- In 1992, a hunter shot an elk in Alberta that is thought to have escaped from a North Dakota game farm.
- In 1991, red deer imported from New Zealand escaped from an Ontario slaughterhouse. The red deer were quarantined because they carried a parasite that is deadly to wild ungulates. The red deer were eventually found and destroyed.
- Four elk, which may have been exposed to Tb, escaped from an Alberta game farm in June, 1990 and were never recovered.

• Colorado

- In 1991-92 wild animals (mostly mule deer) entered 40 percent (16 of 41) of the state's game farms.
- Of 24 recorded escapes since 1974, 18 (75 percent) occurred since 1990 and after the adoption of fencing regulations developed by the game farming industry. The number of escaped animals ranged from one to 100; total escapes exceeded 400 animals.
- In only 33 percent of the reported cases of escaped deer, elk, red deer, and related hybrids have *all* of the animals been recovered.
- At least six escaped "elk" with game farm ear tags were shot by hunters; one "elk" was a red deer hybrid presumed to have bred a number of wild cow elk.
- Escaped game farm animals traveled 5-40 miles.
- Feral populations of ibex, Barbary sheep, mouflon sheep, red deer, fallow deer, and wild boar became established as a result of game farm escapes.
- In 1991, officials reported that Mouflon sheep may have hybridized with Black Canyon bighorn sheep. Extermination measures are being considered.
- Efforts to eradicate a total of eight ibex and Barbary sheep cost \$48,000 (charged to a game farmer), and efforts to remove 18 game farm animals from the wild cost more than \$65,000.
- Since 1988 the Colorado Division of Wildlife has spent more than \$150,000 to control or eradicate exotic animals that have escaped from game farms.

• Montana

- FW&P is currently investigating reports of five game farm elk escapes.
- An escaped game farm elk was shot and left for dead during the 1992 hunting season.
- An escaped game farm elk was killed by a hunter in 1989.
- Two escaped game farm elk were shot by hunters during the 1991 hunting season--one was suspected to be a red deer hybrid.
- Two exotic game-farmed species--in addition to game farm elk--have been free-ranging: (1) mouflon sheep in eastern and western Montana; and (2) fallow deer along the Yellowstone River bottom near Glendive, and the Pryor Mountains near the Wyoming border.
- Both reported and unreported escapes for 1991 and '92 are currently being tabulated.

• New Mexico

- Barbary sheep, originally introduced to provide hunting opportunity, now must be controlled by the New Mexico Game and Fish Department at a cost of \$2,500 per animal. The sheep are causing negative impacts to native wildlife populations.
- Two species of ibex and gemsbok have established feral populations in New Mexico, to the detriment of native deer and desert sheep populations.

• Texas

- Feral populations of nilgai antelope, axis deer, Barbary sheep, sika and fallow deer are well-established.
- A 1988 survey of exotic animals documented 123 species or varieties of exotics in the state. A total of 90,400 animals was confined and an estimated 73,857 were free-ranging, for a combined statewide total of 164,257 (not including feral hogs).
- Recent studies conducted on the Kerr Wildlife Area have demonstrated that axis, fallow, and sika deer can out-compete white-tailed deer.

• Wyoming

- Even though it bans game farms (one has been grandfathered in 1973), Wyoming is collaborating with Colorado in an expensive red deer, Barbary sheep, and ibex eradication program along a common border. Wyoming also had mouflon sheep hybrids in the wild as a result of a trailer wreck in the Wind River Canyon.
- A total of 14 free-ranging exotic animals, which escaped from a game farm in northeastern Colorado, were killed by wildlife officials during the past several years.

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REGULATING GAME FARMS IN MONTANA

HYBRID CROSSES--A GROWING CONCERN FOR WILDLIFE MANAGERS

When two animals of different species or genera breed, the offspring are commonly called "hybrids." Next to disease and parasite transmission, some wildlife health experts say hybridization may be the greatest threat to wildlife populations posed by game farming.

The following hybrid crosses are of growing concern to wildlife managers.

Elk with Red Deer: A common cross in New Zealand and on many North American game farms. Free-ranging red deer and elk have hybridized extensively in New Zealand. Elk and red deer have been intentionally crossed on New Zealand game farms to produce "megareds." Genetic screening of captive elk in Colorado indicated red deer hybridization in 13 of 21 game farm herds (10 percent of the individuals tested). Genetic testing of game-farmed elk in Alberta place the hybrid rate at 11 percent. Genetic laboratories in the U.S. and Canada report that between 10-18 percent of all the elk blood samples they examine test positive for red deer hybridization. As the interest in game farming grows, Montana's wildlife managers fear that hybridization between native elk and red deer would compromise the genetic integrity of native elk populations and result in impacts to the appearance, vocalization, behavior, and ultimately their long-term survival.

Since May, 1992, elk destined for Montana have been required to undergo a genetic test at the border, with only elk showing no evidence of hybridization cleared for entry. Unfortunately, genetic screening for elk and red deer crosses is reliable for detecting only first generation hybrids. The test's ability to detect evidence of hybridization declines with each succeeding generation.

Red Deer with Sika Deer: Free-ranging red and sika deer in Ireland have hybridized to the extent that it is now believed that no pure individuals of either species remain. These hybrids could breed with elk and produce offspring.

Elk with Sika Deer: Some game farmers are crossing sika deer and elk to produce an "American sika deer." Use of these American sika deer as herd sires is promoted as a way to "upgrade" Japanese sika deer herds to elk-sized hybrids. These hybrids could breed with elk and produce offspring.

Red deer with Sika Deer with Elk: At the center of a recent court case in Wyoming were 12 red deer/sika deer/elk hybrids that an individual imported into Wyoming. They produced fertile offspring, which could breed with elk.

Axis with Red Deer: This cross produces fertile offspring, which could breed with elk.

Axis with White-tailed Deer: Hybridization is known to occur in penned situations. The offspring could breed with native white-tailed deer.

Mouflon with Bighorn Sheep: This cross produces fertile offspring. Mouflon are thus a threat to the genetic integrity of bighorn sheep populations.

REGULATING GAME FARMS IN MONTANA

MONTANA'S GAME FARM RULES PROHIBIT SOME EXOTIC SPECIES IMPORTS

The problem of game farm animals escaping from their enclosures is well documented. The most common means of escape is through poor fencing, but escapes prompted by uncontrollable events such as floods, wind, fire, drifting snow, falling trees, and animals jumping over, going under, or going through fences during the rut have also been reported.

Due to the potential for escape from game farms--and the subsequent potential for disease transmission, competition with native wildlife species, and hybridization--Montana prohibits the importation of the following animals:

1. Chamois--Native of central and southern mountains of Europe and Asia Minor. **Threat:** habitat competition.
2. Tahr--Native of Himalayas, Oman, and mountains of southern India. **Threat:** habitat competition.
3. Ibex--Native to Europe, Asia Minor, and the Middle East. **Threat:** habitat competition.
4. Barbary sheep--Native to mountains of Morocco, and Western Sahara to Egypt and Sudan. **Threat:** habitat competition and some disease concerns.
5. Mouflon Sheep--Native to Corsica, Sardinia, and Cyprus. **Threat:** Readily mates with big horn sheep.
6. Oryx and gemsbok--Native to Morocco, Egypt, Arabia, Ethiopia, and South Africa. **Threat:** Habitat competition.
7. Addax--Native to western Sahara, Egypt, and Sudan. **Threat:** habitat competition.
8. Reedbucks--Native to Africa. **Threat:** habitat competition.
9. Wildebeests, heartbeests, sassabies, blesbok, bontebok, and topi--Native to Africa. **Threat:** malignant catarrhal fever.
10. Moose--Native to North America. **Threat:** Introduction or transmission of parasitic infection.
11. Red Deer (and crosses with North American elk)--Native to Europe. **Threat:** can mate with elk and cause "genetic pollution" in native elk populations.

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12. Axis deer--Native to India, Nepal, and Sri Lanka. **Threat:** habitat competition with white-tailed deer, and can mate with red deer and white-tailed deer.
13. Rusa deer--Native to Java, Celebes, Timor, Moluccas, and associated islands. **Threat:** habitat competition.
14. Sambar deer--Native to India to Southeastern China, Malay Peninsula, and associated islands. **Threat:** habitat competition.
15. Sika deer--Native to Southeastern Siberia, China, Japan, Korea, and Manchuria. **Threat:** habitat competition, and can mate with red deer and elk.
16. Roe deer--Native to Eurasia. **Threat:** habitat competition.
17. All wild species (and hybrids) in the family Suidae (Russian boar and European boar). **Threat:** habitat competition and transmission of pseudorabies.
18. All species (and hybrids) in the family Tayassuidae (Javelina). **Threat:** habitat competition and transmission of pseudorabies.

The following species are "restricted" due to specific animal health risks they pose to wildlife and/or domestic livestock:

1. White-tailed deer--Problem: Carriers of meningeal worm. Importation of white-tailed deer into Montana is allowed only by game farmers who currently possess and are licensed for white-tailed deer. Only white-tailed deer from states west of the 100th meridian (where meningeal worm is not endemic) can be considered for entry. This provision allows game farmers currently raising white-tailed deer to obtain breeding stock needed to avoid inbreeding.
2. Caribou (reindeer)--Problem: Due to genetic concerns associated with the Montana and Idaho caribou population--and concern about potential transmission of brucellosis type 4 to native wildlife and humans--importation of reindeer into Montana is allowed only when: (1) the animals are from herds located south of the Canada/U.S. border that are certified brucellosis- and tuberculosis-free; and (2) their destination is east of the continental divide.

REGULATING GAME FARMS IN MONTANA

POTENTIAL SPREAD OF DISEASES AND PARASITES CONCERN OFFICIALS

When animals are moved from one geographic location to another, the parasites and diseases they may harbor are moved with them. In Montana, animal health laws are regulated by the Department of Livestock. However, because of the animal health issues associated with the transportation of wildlife and livestock, interstate coordination and consistency of rules and regulations have become important to wildlife agencies, livestock operators, and game farmers.

Animal health experts warn that diseases and parasites can be quickly spread by: (1) confining animal species not adapted to crowding, (2) mingling species that have never before come into contact, and (3) moving animals from one geographic area to another.

The following is a partial list of parasites and diseases associated with certain game farmed species that pose health risks to wildlife, domestic livestock, and, in some cases, humans.

Brucellosis: The bovine brucellosis bacteria is passed from infected individuals to other animals through oral contact with aborted fetuses and fetal membranes and fluids. Bison in and around Yellowstone and Grand Teton National Parks carry brucellosis. Elk that make use of winter feeding grounds in Wyoming are also infected, with infection rates on some feed grounds ranging from 16-45 percent. There is concern in Wyoming and Montana about the potential for brucellosis to be transmitted from bison or elk to domestic livestock. The brucellosis bacteria causes undulant fever in humans.

Brucellosis (type 4): This type of brucellosis is prevalent in free-ranging caribou and herded reindeer populations in Canada, Alaska, and Scandinavia. The incidence of this brucellosis strain in caribou on Alaska's Seward peninsula is as high as 30 percent. Cattle exposed to infected reindeer later test positive for brucellosis. The type 4 brucellosis is known to be fatal to moose, but because caribou and reindeer do not normally mingle with other members of the deer family, it is not known how exposure affects mule deer or white-tailed deer. The bacteria can be transmitted to humans and is considered by some to present a more serious threat to human health than the bovine brucellosis bacteria. Human deaths attributed to type 4 infections occur most commonly among native peoples in Canada and Alaska.

Tuberculosis: The bacteria can be transmitted via respiratory secretions and other body fluids. Due to limitations of livestock-Tb tests on members of the deer family, AgCanada recommends that a minimum sample size of 200 be tested to identify infected herds. In the U.S., Tb has been found in at least 13 game farm herds in eight states. The USDA has documented Tb transmission from game farm deer to domestic livestock in Pennsylvania, California and New York. In Montana, Tb has been found in five game farm herds. In Canada, Tb has been transmitted from captive deer or elk to a cougar, pigs, domestic cats, llama, and cattle. Transmission of Tb to free-ranging wildlife populations would be a catastrophe. If this occurred, efforts to protect wildlife and livestock would be expensive and

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likely futile. If Montana's wildlife populations were to be infected with Tb, hunting and other wildlife-related activities would become human health hazards.

Johne's Disease: The slow-growing bacterium causes enteritis in domestic livestock and wildlife. It is spread in the feces of infected animals and may persist in the environment for several months. Johne's disease is difficult to diagnose (and difficult to distinguish from Tb), and is virtually impossible to eradicate or control in the wild. Where it has been documented in free-ranging wildlife, association with infected livestock has appeared to be the source of infection. However, once a wildlife population is infected, it can serve as a reservoir for the disease, dispersing and maintaining the bacteria indefinitely--as is the case with Tule elk at Point Reyes National Seashore, Calif.

Meningeal worm: This parasite causes fatal neurological disease in many ungulates (hooved animals). It is carried by white-tailed deer, which do not show evidence of infection. The worm is prevalent in the eastern U.S. where infection in whitetail populations exceeds 90 percent in some areas. (The dry climate of the Great Plains is thought to have excluded this parasite from the West.) The adult meningeal worm is found in the meningeal covering of the brain in white-tailed deer. Larvae are shed in the feces of their host and eventually penetrate snails or slugs, which are in turn ingested by deer. There are no fool-proof tests to detect infection in live ungulates, nor is there a means to treat infected individuals or populations. Fatal meningeal worm infections have been reported for moose, caribou, elk, mule deer, black-tailed deer, white-tailed deer, and pronghorn antelope, as well as for fallow deer, eland, and sable antelope. While domestic cattle have not been shown to be susceptible to infection, the worm has infected domestic sheep, goats, and llamas. The threat of introducing meningeal worm prompted Alberta to close its borders to importation of all ungulates in 1988. British Columbia followed suit in 1991, banning importation of elk, moose, and deer.

Tissue worm: A close relative to meningeal worm, prevalent in Scandinavia and New Zealand. The worm occurs in muscle tissue as well as in the central nervous system, causing neurological symptoms similar to meningeal worm infection. When infected reindeer from Scandinavia were moved to an island off Newfoundland, the tissue worm parasite was passed to native caribou populations. Red deer and alpacas recently imported to Canada from New Zealand were found to be infected with tissue worm. Alberta recently banned importation of alpacas and llamas to prevent introduction of tissue worm.

Malignant catarrhal fever (MCF): There are two forms of this sporadic, fatal disease that affects ruminants and cattle. The form that occurs in the wildebeest family--wildebeest, topi, hartebeest and blesbok--is caused by a herpes virus. The virus that occurs in domestic sheep has not been identified, but can be diagnosed through a serum test. In any case, it appears that the virus is shed in the respiratory secretions of calves and lambs. While the virus does not affect its host, it is fatal to deer, elk, moose and domestic livestock. Outbreaks in native

deer, elk, and moose, though uncommon, are typically seen in captive herds under crowded conditions. Game-farmed axis deer, sika deer, red deer, blackbuck antelope, and bison are also susceptible.

Pseudorabies (PRV): A viral disease of swine that causes abortion in sows and fatal illness in newborn pigs. Older swine do not show symptoms but can become lifetime carriers. Cattle, sheep, dogs, cats, raccoons, foxes, and small mammals can become infected and die suddenly of virus-induced nerve and brain damage. Surveys conducted have revealed that wild swine commonly harbor PRV. PRV in wild hogs has been documented in Alabama, Arkansas, California, Florida, Georgia, Hawaii, Louisiana, Missouri, Mississippi, Oklahoma, South Carolina, and Texas.

Besnoitosis: Caused by a protozoan parasite found in the bones, tendons, and under the skin of the legs and face of infected caribou and reindeer. Between 21-23 percent of caribou in British Columbia are infected. Although the means of transmission are not known, recent research in France suggests that biting flies may play a role. Besnoitosis does not cause serious health problems in caribou and reindeer, but at a zoo in Winnipeg the disease killed deer housed near infected reindeer. Severe cases of the disease are manifest in sloughing of the skin from the infected animal's head and legs. Deer mortality from besnoitosis has occurred at a wildlife park located near Moose Jaw, Saskatchewan. Musk oxen are also known to be susceptible. Domestic cattle have not been susceptible to besnoitosis infection.

Other Diseases of Concern: Chronic wasting disease, bovine spongiform encephalopathy (BSE), dermatophiliasis and poxviral dermatitis, Brucella ovis, bluetongue and epizootic hemorrhagic disease, arterial worm, and ectoparasites such as ticks, mites and lice.

The 1991 Game Farming Symposium participants recommended that all game farm animals should be examined for evidence of all of the above diseases prior to being cleared for importation to any state or province.

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REGULATING GAME FARMS IN MONTANA

GAME FARM SOURCES OF INFORMATION

Montana Department of Fish, Wildlife and Parks

- | | |
|---------------------------------------|--|
| 1) Pat Graham
Director
444-3186 | 2) Heidi Youmans
Special Projects Coordinator
444-2612 |
|---------------------------------------|--|

Montana Department of Livestock

- | | |
|--|--|
| 1) Cork Mortensen
Executive Secretary
444-2023 | 2) Don Ferlicka, DVM
Animal Health Division
444-2043 |
|--|--|

Montana Game Breeders Association

- | | |
|--|---|
| 1) Les Graham
Executive Secretary
284-6933 | 2) Ward Swanser
Game farm operator
323-1089 |
|--|---|

Wildlife disease information

- 1) Margo Pybus, PhD
Alberta Department of Wildlife
403-427-3462

Wildlife genetics information

- 1) Peter Dratch, PhD
US Forest Service Forensics Lab
Ashland, Oregon
503-482-4191

Wildlife veterinary medicine information

- 1) Tom Thorne, DVM
Wyoming Department of Game and Fish
307-766-6313

SENATE FISH AND GAME
ENCL. NO. 2
DATE 3-11-93
BILL NO. HB 338

HB 338
March 11, 1993

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

The game farm issues that Montana has been addressing in recent months are not unique to our state - they are regional, national, and even international in scope. The Department of Fish, Wildlife & Parks has focused its attention on several biological issues, namely: 1) introduction of diseases/parasites, 2) hybridization, leading to genetic pollution of native wildlife species, and 3) habitat degradation as a result of feral populations of escaped game farm animals. These concerns are not based on unfounded fears or speculations. These scenarios have played out elsewhere, resulting in permanent, irreversible damage to wildlife resources.

As public servants charged with protecting and perpetuating the state's wildlife resources, we take very seriously our responsibility to prevent these problems and others from occurring in Montana. It became clear about two years ago that existing statutes were inadequate, especially in light of regional and national growth in the game farming industry. About 15 months ago, at the direction of HB 556 passed by the 52nd legislature, Fish, Wildlife & Parks initiated an effort to update outmoded game farm rules and statutes.

Like many of our neighboring states, responsibility for regulating operation of game farms in Montana is shared by the state's wildlife agency and its livestock agency. Within the past year, the Department of Fish, Wildlife & Parks has increased efforts in our areas of responsibility and the Department of Livestock has assumed new regulatory responsibilities. Joint adoption of new rules last spring by Fish, Wildlife & Parks and the Department of Livestock constituted the first step in providing needed protection for Montana wildlife resources and the livestock industry.

Last summer Governor Stephens directed his staff to appoint a working group on game farms. This group was directed to address major game farm issues; to try to come to agreement on how to address them; and develop legislation to be presented to the 53rd legislature. We at Fish, Wildlife & Parks are pleased that a group representing diverse interests could make such significant progress in addressing problems of major importance. We believe that this bill, the product of that group's deliberations, gives both our agencies the tools necessary to effectively regulate this industry. We also believe that this legislative package benefits the game farming industry by clearly defining minimum operating standards.

Due to the complexity of game farm issues, background information is included along with my testimony. For the sake of time, I will touch only briefly on the highlights of this bill:

- Section 1: Deletion of the shooting license (carcass tag issued by FWP) - which has been replaced by an inspection certificate issued by a DOL brand inspector (also mentioned in Sections 7 and 16). Thus the shooting tag requirement no longer serves any purpose. The reasons for this change include: 1) misuse of game farm shooting tags to harvest wild animals and 2) conformation with DOL inspection procedures for domestic livestock.

- Section 3: Outlines a process for review of game farm license applications, outlining FWP procedures in handling of applications and providing for MEPA compliance in FWP decisions regarding licensing.

- Section 4: Outlines qualification criteria for issuance of a game farm license - for both the license applicant and the physical location of the proposed game farm. It also grants the license applicant an opportunity for review of his/her application by the FWP Commission.

- Section 6: Provides for transferability of a game farm license if both the transferee and the facilities meet certain criteria.

- Section 7: Provides for marking of individual game farm animals. The new rules provide for an ear tattoo registered by DOL to indicate animal ownership and a FWP ear tag that facilitates identification of individual game farm animals.

- Section 8: Procedures for transportation and sale of game farm animals were rewritten to conform with DOL procedures, replacing FWP paperwork requirements with inspection by a DOL brand inspector.

- Section 10: Increases required game farm reports from one per year to 3 times per year. This is intended to clear up some long-standing problems with record keeping and reporting requirements. It doesn't triple the needed paperwork...rather, it requires that 1/3 of the currently required paperwork be submitted at the end of each of 3 reporting periods.

- Section 12: Outlines criteria for revocation of a game farm license and outlines a range of disciplines for various violations (providing some middle ground between no action and revocation). Existing statutes are inadequate for FWP to revoke the license of a proven bad operator. Revocation is a means to address problems of concern both to regulators and to the game farming community.

- Section 13: Outlines steps to be followed in a license revocation.

- Section 15: Provides a license applicant with an opportunity for a hearing in cases of license revocation, denial of renewal, or denial of a license transfer.

HB 338

SENATE FISH AND GAME

ENACTED NO. 3

DATE 3-11-93

BILL NO. HB 338

Mr. Chairman and members of the committee, for the record my name is Cork Mortensen, executive secretary to the Board of Livestock. On behalf of that Board I rise here today in support of this legislation.

The Department of Fish, Wildlife and Parks, representatives from the game farm industry and the Department of Livestock have had a number of meetings during the past year and have arrived at a consensus on what we believe to be a workable piece of legislation.

The result in front of you addresses the concerns of the regulatory agencies involved as well as maintains the viability of the game farm industry. The Chairman of the Board of Livestock chaired this committee and he is pleased with the way this proposed legislation came out.

For those reasons, I urge you on behalf of the Board of Livestock to support this bill.

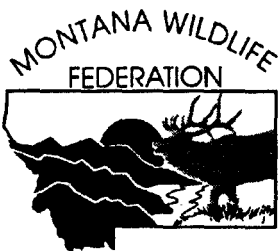
Thank you for your time and consideration in this matter. If you have any questions or need more information, I should be happy to respond.

Sincerely,

Cork

3-11-93

E.E. "Cork" Mortensen, Executive Secretary
To the Board of Livestock



MONTANA WILDLIFE FEDERATION

P.O. Box 1175, Helena, MT 59624 406-449-7604

1990 Outstanding State Affiliate of the National Wildlife Federation

HB 338
March 11, 1993

SENATE FISH AND GAME

EXHIBIT NO. 4

DATE 3-11-93

BILL NO. HB 338

Testimony presented by J.V. Bennett, representing the Montana Wildlife Federation before the Senate Fish & Game Committee

The Montana Wildlife Federation strongly supports HB 338. Populations of captive game animals kept on game farms present a grave danger to native wild game species. This is of considerable concern to the Federation in our role as advocates of both Montana's wildlife and sportsmen. Therefore strong regulation of existing and new game farms is necessary to reduce the threats to Montana's wildlife.

Game farm animals present three major threats to Montana's wildlife: introduction and transmission of disease and exotic parasites, hybridization, and habitat competition or degradation. The history of game farms around the world demonstrates that the occurrence of any one of these dangers can result in permanent, irreversible damage to native wildlife populations.

The trade and transportation of game farm animals creates the very real danger of the introduction and transmission of diseases, including brucellosis and tuberculosis, and exotic parasites, such as meningeal worm and the tissue worm. Currently many of these diseases and parasites are largely absent from Montana's wild game species. However, the importation of game species from other parts of the United States and other countries where these diseases and parasites are common presents not only a danger to wild animals, but also to livestock, and in the case of tuberculosis, humans. Some of these diseases, if established in wild populations, would be virtually impossible to eradicate.

Another danger presented by the possible escape of game farm animals is hybridization, also known as genetic pollution. Many species of non-native game farm animals readily interbreed with native populations. An example of particular concern is red deer interbreeding with American elk. Red deer and red deer hybrids have a competitive advantage over American elk by virtue of the more aggressive breeding behavior of male red deer and red deer hybrids.

Additionally, game farm populations present a danger of habitat competition and degradation. This can occur either through competition in the wild by escaped game farm animals creating feral populations, or by the establishment of game farms on sites needed by native wildlife for breeding, birthing, rearing, migration or wintering.

We also are concerned about the potential for illegal activities prompted by a lucrative market in wild animals and animal parts. Instances of the illegal capture of wild animals have occurred in the United States. Additionally it is possible that unethical game farm operators could use their facilities to traffic in illegally obtained wild animals or parts of wild animals.

It is for these reasons that the Montana Wildlife Federation supports the strengthening of game farm regulations through HB 338. The Federation particularly supports the provisions that allow for revoking licenses for violations, the denial of licenses based on the danger of likely infection of wild species or loss of critical habitat areas, and increased record keeping requirements.

It is hoped that the strengthened regulations will reduce the dangers to wild game populations presented by game farms.

It should also be noted that it is to the game farm industries credit that they also recognize the damage that could be done by either negligent or unethical game farm operators, and that they have been involved developing this legislation and have strongly support it.

Therefore the Montana Wildlife Federation strongly urges the passage of HB 338.

Chairman Pipinich and fellow Fish & Game Committee Members:

I am Ron Bennett from Great Falls representing myself, as well as the Russell Country Sportsmen, the state, the ranchers and even the wildlife conservationists. I am here because it is my belief that the law on game farming should be stricken. The laws, as they are presently written, are wonderful for the game farmers but are not in the best interest of Montana. For clarification, let me explain.

Section 87-4-410, MCA, allows a game farmer to own game animals on his property if they can not be captured or shot. This would have a detrimental effect on Montana's publically hunted-migratory elk population, since most of these elk are on private property at some point during the year. I have attached proposed changes to this Section.

On the other hand, Section 87-4-419, MCA, states that escaped game farm animals can not be recaptured and therefore become property of the state. In the event that an "infected" animal escaped before being detected by the Department of Livestock, the State would be open to liability if this diseased animal infected livestock or in the case of exotic breeds, genetically polluted indigenous species. In either case, if the state owns the escaped animal and the state would be liable. Changes to this Section are attached.

No changes were made in 87-4-10, 13, 18, 19 and 20. Why? With elk antlers in velvet reportedly selling for up to \$100 per pound and out of state hunters paying \$3,500 to \$7,500 for a trophy bull, (Montana Bowhunter, March 1993) it does not take an accountant to figure out that elk farming could be big business, especially if the elk are procured as Section 87-4-410, MCA allows. Recently a game farmer was fined \$1,500 for illegally capturing 80 elk (see attached articles). This is not the only instance. Yet the penalties prescribed in Sections 2 and 12 of HB 338 are minimal. Penalties and enforcement should be a deterrent. Proposed changes are attached.

The costs of many other issues arising from game farming are licensing, environmental impact statements, FW&P's costs, etc. Costs which apparently will be shouldered by Montana sportsmen and women because the licensing fees are a pittance and there is no stipulation for game farmers to bear any of the costs. Refer to the fiscal note, it explains who pays. This follows the trends of today's society. I want it, but you can pay for it! It's called welfare for another segment of society.

I also wonder how the Department of Livestock's requirements got dumped onto FW&P to begin with. The money for Fish & Wildlife comes from the Federal Aid in Wildlife Restoration Act, commonly referred to as the Pittman Robertson Act and from Montana's sportsmen and women's license fees, not from the taxpayers. What does game farming, a business, have to do with

the FW&P? The Department of Livestock should reimburse FW&P for expenses incurred. I wonder what the courts would say about this misuse of money.

HB 338 is basically a license to steal. Not only the funds involved to support game farms, but the loss of wild elk that just happens to wander in an open gate. Yet the sportsmen and women of Montana have to PAY for the privilege.

The members of the house who voted for the bill should be reprimanded. HB 412, calling for a moratorium on the number of new game farm licenses was tabled in committee. If it is not revived and rewritten, you will be leaving a miniature version of the work-comp situation for legislatures to deal with in the next few years. Wyoming, being fully aware of the problems I have noted, has only 1 game farm and will not allow any more. I would conclude that HB 338 is bad for the State of Montana and its sportsmen and women, bad for wildlife conservationists and bad for ranchers of this State. Leaving only the game farmer the one to benefit.

Thank you for your time. I would ask that the Committee consider remedying this transmitted-diseased bill from the House by killing HB 338.

EXHIBIT 5
DATE 3-11-93
HB 338

87-4-410. Removal of game animals. (1) If game animals are present on the land which is to be covered by a game farm license, the license shall be issued but must be conditioned upon the applicant complying with this section.

(2) Before the fence surrounding any such land may be closed, all game animals must to the extent possible be driven therefrom by the applicant, at the applicant's expense and under the direction of a representative of the department.

Delete (3) If at the time the license is issued all game animals cannot be removed from the licensed land, the applicant and a representative of the department shall decide the approximate number of remaining game animals of each indigenous species. This number is the "base number".

Delete (4) The department may remove the base number of game animals from the game farm by trapping them within 120 days from the date the number was determined.

Delete this line (5) If the department decides not to remove the game animals, or if some game animals were not successfully removed by trapping, the public must be granted access to harvest those game animals during a special hunt set for that purpose during the next regularly scheduled hunting season. All administrative costs incurred by the department in arranging the special hunt or providing for hunting on the applicant's land during the regular season must be reimbursed by the applicant.

(6) After compliance with this section, any animals from the base number that remain and their progeny belong to the licensee, and the licensee may deal with them as provided for in this part.

History: En. Sec. 5, Ch. 570, L. 1983.

87-4-411. License and renewal fees — deposit of fees. (1) The department shall charge an initial game farm license fee of \$100 and for each year thereafter shall charge an annual renewal fee of \$25. *See*

(2) The fees must be deposited in the state special revenue fund for the use of the department for purposes of this part.

History: En. Sec. 6, Ch. 570, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

87-4-413

FISH AND WILDLIFE

1106

History: En. Sec. 7, Ch. 570, L. 1983.

87-4-413. Inspection. (1) Upon receipt of an application for a game farm license, the department shall inspect the land proposed to be covered by the license.

(2) After issuance of a game farm license, the department may inspect the game farm or the licensee's game farm books on a scheduled basis or on such other reasonable basis as may be determined necessary.

History: En. Sec. 8, Ch. 570, L. 1983.

87-4-418. Unlawful capture. No person may capture, take, or otherwise acquire any game animal in this state for use on a game farm except as provided in 87-4-410. *no exceptions*

History: En. Sec. 13, Ch. 570, L. 1983.

87-4-419

FISH AND WILDLIFE

1108

Game farm owner will be responsible for all costs involved in re-capture or disposal of.
87-4-419. Escape from game farm — effect. If a game farm animal escapes from a game farm, the game farm licensee shall immediately notify the department of its escape and shall make every reasonable effort to recapture it. If the escaped animal cannot be recaptured within a reasonable time, it becomes the property of the state.

History: En. Sec. 14, Ch. 570, L. 1983.

87-4-420. Taxation. All game farm animals raised on a game farm may be assessed as personal property of the owner.

History: En. Sec. 15, Ch. 570, L. 1983.

Elk rancher fined for capturing wild elk

LIVINGSTON (AP) — A Corwin Springs elk rancher, described as one of the founders of the industry, has been fined \$1,500 for illegally capturing more than 80 wild elk in 1989.

District Judge Peter Rapkoch imposed the fine, saying elk rancher Welch Brogan engaged in "an egregious series of acts and methods of conduct in the operation of this elk farm."

He fined Brogan \$500 for each of three counts, the maximum allowed by law.

Brogan, who has been raising elk just north of Yellowstone National Park for 46 years, was found guilty of two counts of failing to maintain his fences properly and one count of capturing more than 80 elk for use in his operation.

His conviction also means the state could move to revoke his game-farm license.

Eileen Shore, an attorney for the Montana Department of Fish, Wildlife and Parks, said revocation "has been discussed," but no decision has been reached.

Brogan's attorney, Joe Gary of Bozeman, argued at Brogan's sentencing hearing that Brogan would never try to capture wild elk because they would be impossible to sell without proper ear tags and documentation.

In addition, trying to sell wild elk would endanger his permit, putting at risk hundreds of thousands of dollars Brogan has invested in his game farms in Montana and Alaska, Gary said.

Brogan runs a reindeer process-

ing plant in Nome, Alaska, as well as his elk operation in Corwin Springs. He is widely known in the game farm industry and is considered one of the industry's founders.

Capturing wild elk for Brogan's own use would be "jeopardizing his entire lifetime of work in Montana and Alaska," argued Gary, who characterized Brogan's violations as "technical."

Gary insisted Monday that Brogan had no intention of keeping the wild elk wardens saw on his property in February 1989. They were there because a gate had been left open in efforts to recapture an escaped domestic elk, Gary said, and one of Brogan's part-time employees had shut the gate without knowing the elk were inside the pen.

"He's not a violator of laws," Gary said.

Thursday, January 7, 1993

In brief

Montana

Helena game farm gets state approval

HELENA (AP) — A game farm license application from Jerry Christison has been approved even though the state didn't have time to properly analyze the proposal and there was strong public opposition, an official said Tuesday.

Christison wants to build a 55-acre game farm off Grizzly Gulch Road south of Helena.

"We didn't hear a word supporting the idea from either the applicant or the game farm industry," said Jerry Wells, regional supervisor for the Department of Fish, Wildlife and Parks. Even so, under existing law, "we didn't have the authority to deny it," Wells said.

The state got 35 written comments and a petition with 167 signatures — all opposing the idea.

However, the permit has five conditions, including a requirement that Christison surround the 55 acres with two fences — each at least 8-feet high and higher in places.

Wells said the double fence is required because of concerns that escaped animals could breed with native animals or spread disease.

New charge filed in game farming

LIVINGSTON (AP) — Another felony charge has been filed against Welch Brogan, the Corwin Springs game farmer whose trial last month on other charges ended in a hung jury.

Brogan appeared Friday in justice court on one felony count of tampering with public records or information.

The incident allegedly occurred last March 9 when Brogan filed an amended report on the number of elk on his game farm, one of the oldest in the country.

Brogan filed that report after game wardens arrested him in February on a felony charge of unlawful possession of wildlife — three cow elk in his pasture.

At that time Brogan's records did not coincide with the number of elk on his property, Deputy Park County Attorney Tara DePuy said Monday, and Brogan filed the amended report.

In December, a jury failed to reach a verdict on the other felony count of unlawful possession of wildlife and the judge declared a mistrial.

DATE

FILE

HB 338

Federal Aid in Wildlife
Restoration Act

William - Spickard Act

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0338, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the laws relating to the licensing and operating of game farms; eliminating the game farm shooting license; revising definitions, penalties, application procedures, and licensing criteria related to game farm licensure; increasing the license fee; revising animal transportation and sales provisions; revising license revocation criteria and procedures; and expanding record keeping requirements.

ASSUMPTIONS:

1. Joint rule making by the Department of Fish, Wildlife and Parks (FWP) and the Department of Livestock for transition into joint regulations of game farms, requiring 0.60 FTE, grade 16, at FWP in FY94 only.
2. Twenty-four (24) applications will be received annually with two requiring EIS documentation for MEPA compliance, requiring 0.38 FTE, grade 15, at FWP.
3. Application review will require 4 hours per application, requiring 0.05 FTE, grade 14, at FWP.
4. An equivalent of one FWP field warden FTE and related operation dollars will be required to enforce game farm regulations and to ensure that wild animals are not being trapped by game farm owners. This will be handled through redirection of existing workforce.
5. The Department of Livestock's role with regard to quarantines, inspection, and identification of game farm animals will continue.

FISCAL IMPACT:

Expenditures:

FTE
Personal Services
Operations
Total

	FY94	FY95
	1.03	0.43
	\$35,753	\$14,089
	<u>9,600</u>	<u>4,800</u>
	\$45,353	\$18,889

Revenues:

Initial game farm license fee
Annual renewal fee
Total

	FY '95		
	Current Law	Proposed Law	Difference
	\$2,400	\$4,800	\$2,400
	<u>2,550</u>	<u>6,300</u>	<u>3,150</u>
	\$4,950	\$11,100	\$5,550

Net Impact: The Department of Fish, Wildlife and Parks will incur a net cost of \$40,403 in FY94 and \$13,339 in FY95. The fiscal impact to the Department of Livestock will be minimal.

David Lewis 2.1.93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Bob Ream 2.1.93
ROBERT R. REAM, PRIMARY SPONSOR DATE

Fiscal Note for HB0338, as introduced

HB 338

EXHIBIT 5
DATE 3-11-93
HB 338

Removal of Game Farm Animals
Recommended Changes

1. 87-4-410 (2) Delete-to the extent possible.

(3) Delete

(4) Delete

(5) Delete-first line. Add: Any for some
Line 2: Delete were and by trapping.

ADD: THEN - before the public.

(6) Delete

Why should any game animals be left as stock?

2. 87-4-413 Inspection

(2) Line 2: Add: An UNSCHEDULED

Any inspection that is scheduled is a waste of time.

3. 87-4-418 Unlawful Capture

(1) Delete, except as provided in 87-4-410

ADD: no exceptions

4. 87-4-418 Escape from game farm.

(a) Delete: it becomes the property of the
state.

ADD: game farm owner will be responsible for all
cost involved in re-capture or disposal of.

Read the FW&P summary pertaining to regulation of the Game
Farm Industry. Why should the state be responsible for an animal
that could spread what the summary outlines?

5. 87-4-420 Taxation

(1) Delete: May

ADD: Will

Please refer to HB 338

1. Delete: The words approve with stipulations, issued with stipulation, etc. As they appear in the wording. If this bill was constructed so all the loopholes were closed, any stipulations would be unnecessary.

2. Page 3Line 3: Change misdemeanor to felony.

3. Page 5 Lines 7 through 12: Who pays for the environmental impact statement?

4. Page 6Line 11: This is the only time the word "must" is used.

5. Page 7Line 2: Delete: May Add: Will
Line 21 After populations add or livestock.

6. Page 9Line 3: Change \$200 to \$2500

Line 4: Change \$50 to \$500

Line 14: Leave in "not violated"

Line 15: Leave in "line 15" ADD: "and before complied"

7. Page 11 Lines 20-25: Who pays for this?

Page 12 Lines 1-25: Who pays for this?

8. Page 16 Line 16: Delete: repeated.

Line 22: Than they give licensee 30 days to correct?

Line 24: Delete: May Add: Will

Line 25: Delete*

9. Page 17 Line 10: Delete: \$5,000 Add: \$100,000

Line 18: Add "felony" after criminal

Line 19: Delete: \$1,000 Add: \$100,000

Delete: county jail Add: state prison

Line 20: Delete: 1 Add: 5 years

10. Page 18 Line 16: Violations corrected within 30 days?

11. Page 19 Line 9: Change 180 to 30 days

Line 16: Delete: May Add: Will

Line 21: Add: At owner's expenses

EXP-01 5
3-11-93
113 338

Tom Sands
1313 Austin Crossroad
Columbia Falls, MT 59912
755-8481
755-3957

SENATE FISH AND GAME
ENACTED NO. 6
DATE 3-11-93
BILL NO. HB 338

March 11, 1993

The Honorable Senator Gerry Devlin
Fish and Game Committee
Capitol Station
Helena Montana

Dear Senator Devlin:

I have been made aware of your meeting today at 3:00 and would like to discuss HB 338 with you.

I own an Elk Ranch just northeast of Kalispell, and presently have 24 head of elk on my property. My game farm license is 101.

We need to stress the fact, as is stated in the definitions on page 2 of the bill that a "Game Farm Animal" is defined as "privately owned elk".

I remind you that these are MY animals and I take exception to being regulated by ANYONE, OR ANY AGENCY.

The portion of the proposed bill that I have a big problem with is on page 14, "87-4-417(2) regarding the reports. I have no problem in reporting to the fish and game once a year, but I feel that three times a year is unnecessary, redundant, and only serves to justify bureaucratic jobs.

When I report in January, I show all the Elk on my property which I own or pasture for other owners. A report in April would only be a duplication of this report. The cows calve in June, and the sex of the animals is impossible to detect for several weeks if not months. A report in September may show the wrong sex for an animal which I am not sure of the sex. Keep in mind that you do not walk up to most calf elk. I feed my bulls out of my hands, and several of the cows, but it takes about 6 to 8 months before the calves become used to me enough for me to determine the sex.

Again, I have no problem in reporting once a year, but three times a year is not necessary, and will only produce more paperwork for me and the bureaucrats.

Thank you for your time, please amend this bill to only provide for reporting once a year.

Sincerely,

Tom Sands

HB 341
March 11, 1993

SENATE FISH AND GAME
7
3-11-93
HB 341

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

The problem of illegal fish introductions into Montana waters is one of the most serious facing fishery managers today. This problem is widespread throughout parts of the state with often irreversible impacts. The problem is more acute now that anglers have become increasingly mobile and have equipment capable of transporting live fish.

Fish are illegally introduced into waters by well intentioned but uninformed anglers who think they are improving the fishery by adding their favorite species. But they are unaware or insensitive to the desires of others, the capability of the resource or the existing management plan for a lake or stream.

New fish species introduced into a water often multiply quickly with serious negative impacts on existing fish populations due to predation and/or competition. Introduced species seldom provide good fisheries and in most cases permanently damage existing fisheries. Native species may disappear or be reduced in number.

There are many examples across the state:

Rogers Lake in northwestern Montana was once populated with Arctic grayling. It was a source of excellent fishing and a source of grayling eggs for the fish stocking program. Illegal introduction

of perch resulted in the complete loss of the grayling fishery in just four years. The lake is now populated with stunted 4" perch.

Northern pike were first illegally planted in western Montana in 1953 and have since spread to 61 waters in every drainage west of the divide. Although some waters have produced good northern pike fishing, the introduced fish have also been implicated in the loss of bass, trout and yellow perch when placed in the wrong waters.

Walleye, which are regarded as the premier sport fish by many anglers, have been illegally released into Canyon Ferry, the Bitterroot River, Salmon Lake in the Clearwater River drainage, Noxon Reservoir, and the Flathead River. The future of sport fishing in these waters could be greatly impacted, depending on whether or not walleye are able to establish reproducing populations.

There are numerous other examples of illegal introductions across the state. The Department of Fish, Wildlife and Parks has spent thousands of dollars in attempting to rehabilitate some of these waters.

In some instances, introduced species can be chemically treated and removed, but this is often quite costly and results are mixed. It is difficult to achieve complete eradication. If the body of water is too large or deep to effectively eradicate the fish population,

the introduced species becomes a permanent resident and the quality of the fishery is permanently affected.

We have made our share of mistakes with introductions in the past. The Department of Fish, Wildlife & Parks, prior to introducing a new species to a body of water, undertakes a rigorous environmental analysis. Even then, there is some level of risk with any new introduction. It is little wonder that illegal introductions by people who think they have a better idea often end up doing far more harm than good.

This legislation is necessary to improve the effectiveness of existing laws that are intended to prevent illegal fish introductions. Under existing statutes, it is illegal to release live fish into a body of water, but the person must be caught in the act. Past experience has shown it is virtually impossible to enforce such a law and if one could obtain a conviction, the illegal introduction would have already occurred and the damage would have been done. Under the proposed legislation, our enforcement would be strengthened and the intentional introduction more effectively detected and controlled. Our research shows that this legislation is similar to that already in existence in Utah, Idaho, Alaska, Wyoming, Oregon, and British Columbia.

This legislation will not affect those persons with valid permits to transport or possess live fish, such as private pond operators,

commercial fish hatcheries, persons issued scientific collectors permits, or persons holding valid import permits.

The bill as presented represents a compromise with angler groups who expressed concern over the loss of opportunity to transport live fish. Amendments authorize the commission to adopt rules for the possession and transportation of legally taken fish. The original legislation would have allowed only the transportation of fish species approved for use as live bait. The amendments also provide a legislative intent which indicates the department is expected to develop rules that will permit anglers to filet their fish in the field.

Fish, Wildlife and Parks will continue aggressive statewide educational programs to point out the serious consequences of illegal introductions, whether deliberate or unintentional. We have been joined in this effort by groups like Walleyes Unlimited, Trout Unlimited and BASS.

The practice of allowing unregulated transportation of live fish (whatever species), including transportation in live wells, is a significant risk to Montana fisheries.

We urge your support of this bill.



Turn to page 27 for an article on a program that provides new opportunities for hunters.

MONTANA OUTDOORS

July/August 1990
Volume 21, Number 4

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Front Cover—Warm-water, cold-water, stream, river, lake, reservoir, flies, lures, shore, wade, troll. Montana offers just about anything an angler could fancy. **Conrad Rowe's** front cover shot of a rainbow trout shows the sort of catch which would make any fisherman proud.

Back Cover—Painted by Livingston artist **Parks Reece**, the back cover piece is titled "Hot Crowmance." It was inspired by **Rand Robbin's** poem, "As the Crow Flies."

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3-11-93
HB 341

IT CAN START INNOCENTLY. At the end of a long day, an angler dumps his bait bucket into the water. Or it can be more sinister. A truck brakes to a halt; the driver steps out and looks furtively around. He grabs a bucket out of the back and in a few steps is at the water's edge. In a moment he dumps the bucket's contents and a new fish species joins the crowd down at the old fishin' hole. And, more often than not, there goes the neighborhood.

Illegal fish transplants are spreading across the state in a mini-epidemic and are becoming one of the major problems facing fish managers. In some cases, illegal transplants have produced worthwhile new fisheries. But the results are unpredictable, and all too often they have ruined existing fisheries, raised management costs, and caused an overall loss in fishing opportunity.

Northern pike, for example, were illegally transplanted

ILLEGAL ALIENS

by Jim Vashro
photos by Mike Aderhold

from Sherburne Lake to Lonepine (Dryfork) Reservoir near Hot Springs in northwestern Montana in 1953. By 1957, they had arrived at Echo Lake near Kalispell. In the 1970s, pike spread explosively throughout western Montana and are now found in 56 waters in the Clark Fork, Swan, Stillwater, Whitefish, and Kootenai drainages. They have recently been found in the Bitterroot River and Upsata Lake in the Clearwater drainage. This kind of sweeping spread makes fish managers reluctant to introduce fish into new waters, for fear of making them more available to the "bucket brigade."

Although pike have produced popular fisheries in parts of northwestern Montana, they have also in some instances wiped out bass, perch, and trout populations. A recent—and we hope abortive—attempt to introduce pike to Ashley Lake provides a graphic example of how senseless illegal transplants can be. Ashley Lake produces rainbow-cutthroat hybrids of spectacular size, including the current world record of 30 pounds. It would be hard to improve on that fishery, yet two dead pike were recently found there, indicating that someone thought they had a better idea. Pike have also turned up in Tally Lake, the state's deepest lake at 480 feet—hardly typical pike habitat!

Walleyes are highly regarded by anglers, and the Depart-

ment of Fish, Wildlife & Parks (FW&P) has responded by renovating the Miles City Hatchery to produce walleye fry to supplement existing populations and create new fisheries. However, the Montana Fish and Game Commission recently had to take the drastic and unusual step of banning walleye introductions west of the Continental Divide. Western Montana has a number of lakes potentially suitable for walleyes. But an environmental assessment showed that walleyes have the potential to impact trout and salmon. Experience with



In the 1970s, illegally transplanted northern pike spread explosively throughout western Montana, in some cases wiping out bass, perch, and trout populations.

northern pike left little doubt that walleyes, if introduced to western Montana, would quickly be illegally spread to other waters where they might become a problem. The neighboring state of Idaho has had to put a moratorium on its walleye stocking program after the fish were illegally moved to a dozen new lakes. The irresponsible actions of a few people have effectively shut down a new fishing opportunity for thousands of anglers. As it is, there are at least two reliable accounts of illegal walleye transplants from east of the divide into the Flathead drainage.

This is not to say that fish introductions are inherently bad. George Holton, a retired assistant administrator for FW&P's Fisheries Division, is currently writing a guide to Montana fishes. He notes that more than half our present trout species are introduced, as are sunfish, bass, crappie, yellow perch,

and walleye. Montana's internationally famous trout fishing is based on rainbow and brown trout, both introduced. But in some cases introduced fish have been a disaster. Through competition, they have reduced many native fish to "species of special concern" status. Planned introductions now take place only after detailed environmental assessments and lengthy public review.

Violators, on the other hand, need only a bucket. Their actions are illegal, ill-conceived, arrogant, and potentially disastrous. Some of these "bucket biologists" are motivated by fishing success stories from the Great Lakes and lower Columbia River. They want to "have it all" and are impatient with the go-slow approach of FW&P. But they fail to recognize that Montana's pure waters are not as fertile—they can produce only 10% to 20% of the fish these other waters produce.

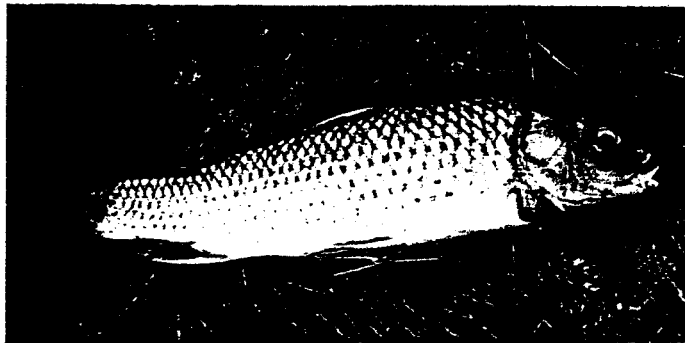
Following are a few major examples from several hundred documented illegal fish introductions across Montana. There are doubtless hundreds more that have not yet been discovered or that have failed. Incidentally, to dispel a common myth, fish are not carried from lake to lake by osprey or as eggs on ducks' feet. The chances that fish would survive that kind of handling in sufficient numbers to establish a population are nil. Firsthand and secondhand accounts leave no doubt that people are willfully and illegally moving live fish between waters.

Western Fishing District

Following up on an offhand remark, FW&P fish biologist Wayne Hadley investigated a pond near Anaconda. To his shock and dismay, he found carp—dozens of them—in a self-sustaining population. Carp were brought to the United States in the late 1800s from Europe where they were highly regarded as food and game fish. American anglers, however, have greeted carp with all the enthusiasm normally reserved for cockroaches. Carp in Montana eat game fish eggs and aquatic insects, muddy the water, destroy plants by rooting on the bottom, and in general make a nuisance of themselves. If those carp in the pond near Anaconda had escaped to the nearby Clark Fork, they could have infested the Clark Fork (all the way to Lake Pend Oreille), Bitterroot, Blackfoot, and lower Flathead river drainages—640 miles of river in all, as well as thousands of miles of tributaries. The damage would have been incalculable and irreversible. Hadley quickly scheduled a "rehab" (chemical rehabilitation or poisoning with the fish toxicant rotenone) to nip the problem in the bud for about \$750.

Other problems have not been resolved as easily or as cheaply. For example, goldfish were discovered in a pond at a Missoula golf course near the Clark Fork River a few years ago. Goldfish are close relatives of carp and, when released to the wild, they can grow to several pounds and develop all the nasty habits of their cousins. The golf course paid for several rehabs, but goldfish are tough and they are still surviving.

Rogers Lake near Kalispell is one of four grayling lakes in northwestern Montana. The fish grow to a nice size (14 to 16 inches) and also supply all of the eggs for the state hatchery system. The lake was rehabbed in the mid-1970s to remove



Carp (above) were brought to the United States from Europe in the late 1800s. They eat game fish eggs, muddy the water, destroy aquatic plants, and generally make a nuisance of themselves. Suckers (below) are native to Montana, but can cause problems for game fish when they are illegally introduced, often as bait, to lakes and reservoirs.



illegally introduced reidside shiners that were depressing the grayling population. The grayling flourished until four years ago when rainbow trout, brook trout, and yellow perch were illegally introduced in rapid succession. Yellow perch are rapidly reproducing and will eventually eat the grayling into oblivion. Fishermen now catching nice trout and perch are resisting recommendations to rehab, but the lake will soon be full of stunted perch as their numbers exceed the food supply and growth rates drop.

Lagoni Lake north of Whitefish produced nice 16-inch westslope cutthroat in the past. Someone packed in northern pike, and the lake was soon full of "hammer-handle" pike and devoid of trout. The U.S. Forest Service and FW&P rehabbed the lake in 1982 at a cost of \$3,000, and the lake once again produced nice trout for three years until pike reappeared. Future management is now in limbo.

Upsata Lake near Clearwater Junction was rehabbed in the mid-1950s to remove stunted yellow perch. The lake produced good rainbow trout fishing for 29 years until the mid-1980s, when yellow perch reappeared and trout plants began to fail. The perch initially grew to 12 or 14 inches and were very popular, but soon stunted out at about five inches. The lake was closed to fishing during 1987 while 1-year-old fish-eating rainbows were being introduced. That plant was followed by a largemouth bass transplant. However, the \$16,000 worth of recovery efforts may be stymied, since unauthorized northern pike showed up in 1988.

Some fish get moved long distances. In the last few years, FW&P has discovered bluegills in Tetrault (Carpenter) Lake near Eureka and crappie in Cabinet Gorge Reservoir near

Noxon. Both fish had to come from Idaho or eastern Montana. And, in 1988, fishery crews shocked Woodland Park Pond in Kalispell in an effort to remove what they suspected to be an illegally planted northern pike responsible for the disappearance of most of the park's ducklings. They didn't find the pike but did capture a seven-pound channel catfish—the first one documented west of the divide.

Central Fishing District

Duck Lake on the Blackfeet Indian Reservation was regarded as one of Montana's premier trophy rainbow trout lakes from the mid-1950s through the mid-1960s. Suckers, probably used for bait, infested the lake and soon accounted for 90% of the fish biomass. The competition drove trout size and numbers down dramatically. Starting in 1985, the U.S. Fish and Wildlife Service (USFWS) applied rotenone (a fish poison) to two shallow bays used by spawning suckers and killed hundreds of thousands of them. Ron Skates, a USFWS biologist, notes that "suckers are now less than 10% of the fishery, trout growth rates have doubled, and some rainbow trout are once again growing to seven to eight pounds," but only after an expenditure of \$20,000. Skates cautions that the suckers are only *controlled*, not eliminated, and will still require periodic poisoning.

Farther south, another USFWS biologist, Ron Jones, found to his horror a few years ago that eastern brook trout had been moved into Arnica Creek, a tributary to Yellowstone Lake in Yellowstone National Park. Because brook trout have displaced cutthroats wherever they coexist, the brookies posed a threat to all the Yellowstone cutthroat in the lake and drainage above Yellowstone Falls. Jones notes that "the brook trout had the potential to be an ecological disaster" and not just for cutthroat. "Grizzly bears and birds (including bald eagles) use the spring cutthroat spawning run as a food source. Brook trout spawn in the fall and would have eliminated that important food supply." Jones hopes two years of rehabs have eliminated the problem, but he and other biologists are still holding their breath.

Brook trout introductions in the Beartooth-Absaroka Mountains did not end as happily, however. Brookies were spread throughout entire drainages in the 1940s and '50s, and these fish replaced other desirable species such as cutthroat trout, rainbow trout, and grayling.

Buffalo Wallow Reservoir lies northeast of Lewistown in the Missouri Breaks, where good fishing spots are few and far between. This prairie pond produced outstanding rainbow trout fishing until the mid-1980s, when yellow perch showed up. Stunted yellow perch soon replaced the rainbow trout. However, a rehab would require draining the reservoir and losing several years of fishing with no assurance of success.

Canyon Ferry Reservoir is the most popular fishery in Montana. Hefty rainbows and yellow perch provide up to 140,000 days of fishing annually. However, recent fluctuations in the fishery have raised demands for new species, particularly walleye. Concerned about potential competition between walleyes and the trout and perch, FW&P biologists are assessing the situation and gathering public input on future

management. However, the recent appearance of several northern pike and walleyes in the reservoir shows that someone is trying to short-circuit the process.

Eastern Fishing District

The eastern fishing district has dozens of small- to medium-sized ponds and reservoirs. As the following examples will attest, a high percentage are subject to illegal transplants, resulting in costly rehabilitation efforts.

Broadview Pond in Yellowstone County was once a very clear pond filled with large crappies. After carp were introduced, the pond became muddy and the crappie population declined. Rotenone treatment in 1983 did not solve the problem.

Ross Reservoir in Blaine County produced good cutthroat fishing until suckers were introduced. The reservoir had to be drawn down and rehabbed.

An experimental gill net set in Bell Ridge Reservoir (Phillips County) captured a 24-inch shovelnose sturgeon. The reservoir is 20 miles north of the Missouri River where sturgeon are normally found.

Illegal introduction of yellow perch ruined a good trout fishery in the Dredge Cut Trout Pond in Valley County. The reservoir was subsequently converted to a warm-water fishery with northern pike, walleye, and largemouth bass. In an ironic twist, a recent illegal introduction of bluegills has severely reduced the size of the yellow perch.

Gartside Reservoir near Sidney has been rehabbed three times over the past 25 years to remove black bullheads, yellow perch, carp, suckers, and pumpkinseed sunfish. More illegal species show up after each rehab, making biologists wary of any further actions.

Krieder Reservoir near Sand Springs was treated with rotenone in 1987 to remove carp and suckers. The reservoir now shows promise of being a good bass pond, but only after expenditure of about \$4,000.

America was founded on an open door policy, and our melting-pot culture has been shaped and strengthened by the infusion of various races. Montana's diverse fisheries have grown in much the same way. But illegal aliens now threaten to overwhelm both systems. Anglers need to educate themselves and others about the perils of illegal fish introductions. Live fish should never be moved between waters. And anglers should only use live bait minnows on those few waters where legally permitted. Concerned anglers with information about illegal introductions should contact an FW&P warden or biologist, or call 1-800-TIP-MONT if they wish to remain anonymous. Fines and punishment need to be stiffened to reflect the serious nature of the crime and the damage to public resources.

When fish are planted illegally, all anglers end up paying the bill. Fishing license fees that should be spent on improving habitat and creating new and better angling opportunities must be diverted to cover the cost of rehabs or planting more or larger hatchery fish. New legal fish introductions are postponed or canceled. In some cases, the damaged fishery is beyond repair. Illegal aliens hurt us all. ■



Vol. 3, No. 2

October 1991

BUCKET BIOLOGY

EXHIBIT 7

DATE 3-11-93

HB 341

Managing Fish with a Bucket...

Three years ago, one could watch several thousand grayling jam into the Rogers Lake inlet in the annual spring spawning rites. One could watch with delight as they thrashed about in the shallow water, looking like miniature sailfish with their distinctive fan-like dorsal fins flashing brilliant turquoise and salmon-colored streaks. Dozens came to admire the spectacle. Hatchery workers, with just a few scoops of net, were able to gather enough fish to supply eggs for Montana's entire planting program. The fishing off the mouth of the inlet was some of the best around.

This spring, the stream was eerily vacant. The grayling were gone in just two short years. They were the victims of three successive illegal cutthroat hybrids, brook trout, and yellow perch.

The perch were the final straw. The lake produced good trout for a while, then produced jumbo perch for two years. Now only stunted 4" perch remain.

Gone, sadly, are the grayling, one of only four populations in northwestern Montana. Gone, also, is the spring spawning spectacle, the great fly-fishing, the easy egg supply. Only a ruined fishery remains.

The most likely solution is to start over by poisoning the fish out of the lake, a move that will cost at least \$25,000 from anglers' license fees. All because someone thought they had a better idea.

Unfortunately, this scenario is played out every day across the United States. The Department of Fish, Wildlife and Parks now has documented over 160 illegal transplants across the state. Undoubtedly, there have been many hundreds of more illegal introductions that didn't take. Gamefish, rough fish, warmwater fish, coldwater fish—you name them, they've been moved around. Some transplants are unintentional—a bait bucket dumped overboard or fish escaping from a private pond. Other introductions are more malicious, placed there by someone

who wants to "have it all" in the angler's favorite stream or lake.

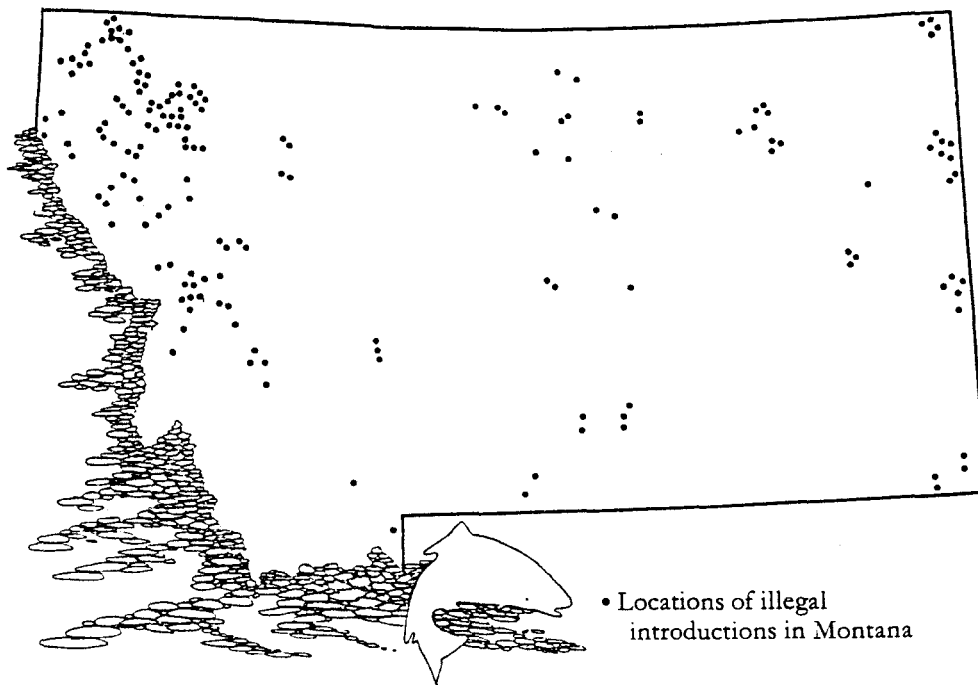
This does not mean that all fish introductions are inherently bad. Introduced species are the cornerstones of many of Montana's most noted fisheries. But even the best planned, well-intentioned introductions can have unexpected results. Poorly planned or illegal introductions can cause disasters. Consider these problems that can occur:

- competition for food and space with existing fish;
- interbreeding or disruption of spawning with existing fish;
- introduction of new diseases and parasites;
- alteration of aquatic habitat, and;
- less fishing opportunity and higher management costs for anglers.

Fish have the same biological controls as other animals. Just as you wouldn't run twice as many cows as a pasture can handle, or mix lions and tigers with the cattle, people have to understand that if you mix too many fish, or the wrong kinds of fish, something will have to give. This usually manifests itself through lower growth rates or higher mortality.

Because of all the potential problems, environmental assessments or impact statements are now required for all planned introductions. Factors examined include biological and social impacts, access, and economics. Those with little patience and a bucket can bypass the whole process—hence the term "bucket biology." Ironically, these so called "bucket biologists" also hurt themselves. Fish biologists contemplating the introduction

Continued



BUCKET BIOLOGY

Continued

of new species to satisfy public demand have to face the certainty that the fish will venture beyond the point of which they're planted. If the potential impacts are great enough, biologists have to decide against the introduction and anglers are denied new opportunities.

The biggest expense in many of these waters is the cost of rehabilitating the pond or lake. In some cases a pond or small lake can be drained to remove the unwanted fish. In other instances, we can apply a chemical fish control agent to kill most of all of the existing populations and then restock as soon as possible. When rehabilitating of a water body with a chemical is possible, it often costs thousands of dollars and does not provide any guarantee that all the undesirable fish will be eliminated. In many instances, chemical rehabilitation is not even possible due to the size of the water body or other factors.

Following are just a few examples on how illegal transplants cost anglers in increased license fees and reduced fishing opportunities.

WESTERN FISHING DISTRICT

The Western Fishing District includes all waters in Montana west of the Continental Divide.

Carp were introduced into the Missouri River drainage in the late 1800s and have since wreaked havoc by muddying waters, destroying aquatic vegetation, eating fish eggs and competing for food and space.

Several years ago fish biologists were dismayed to find a thriving population of carp in a pond in the upper Clark Fork of the Columbia drainage. The problem was quickly solved by poisoning the pond, but a carp escape to the drainage could have contaminated 640 miles of the Clark Fork, Bitterroot, and Blackfoot rivers. Walleye, northern pike, and smallmouth bass have all recently appeared illegally and the long-term impacts on this troubled system are unknown at this time.

Upsata Lake (near Lincoln) was rehabilitated 30 years ago to remove stunted perch and has since produced good trout fishing. Perch reappeared several years ago and quickly stunted again. MDFW&P went to considerable expense to plant predacious rainbows and bass and had to close the lake to fishing for a year to give the predators a chance to make headway. Unfortunately, recovery efforts could be jeopardized by the recent appearance of northern pike in the lake.

Northern pike were first illegally planted in western Montana in 1953 and have since spread to 61 waters in every drainage west of the Divide. Although northern pike produce some good fishing, they have also been implicated in the disappearance of bass, trout, and yellow

perch when placed in the wrong waters. Pike made their most recent appearance in the upper Clearwater River drainage.

CENTRAL FISHING DISTRICT

The Central Fishing District includes all waters in the central part of Montana.

Utah chubs were introduced into Hebgen Reservoir in the mid-1930s, probably as bait. Since then, they've spread in great numbers as far downstream as Canyon Ferry Reservoir. They compete directly with trout for food, decreasing trout growth rates and possibly decreasing trout survival. They are also regarded as a nuisance by anglers.

Around 1960, Duck Lake north of Browning was regarded as one of the premier rainbow trout lakes in the nation. Suckers, probably introduced illegally as bait, infested the lake and soon accounted for 90 percent of the fish biomass. Trout numbers and growth decreased dramatically. The U.S. Fish and Wildlife Service spent \$20,000 on rehabilitation projects and trout growth and numbers have picked up considerably. But the problem is only controlled, not eliminated, and it will require continual management and expenditures.

Buffalo Wallow Reservoir northeast of Lewistown produced very good rainbow fishing until yellow perch appeared. The perch soon stunted out and the fishing there is now poor. Reservoir rehabilitation will either be very expensive and/or require drawdown of the reservoir, so no immediate solution is in sight.

EASTERN FISHING DISTRICT

The Eastern Fishing district includes all waters lying east of the Central Fishing District.

The appearance of northern pike in Beaver Creek Reservoir in Hill County required a change in management strategies that required planting more expensive, catchable-size trout. The recent appearance of yellow perch may further raise the cost of managing fish in the reservoir.

Broadview Pond in Yellowstone County was once a very clear pond with large crappie. Illegally introduced carp muddied the pond to the point where productivity declined. A rehabilitation attempt in 1983 was unsuccessful.

Illegal yellow perch introduction ruined a good trout fishery in the Dredge Cut Trout Pond in Valley County. The reservoir was subsequently converted to a warmwater fishery comprising of northern pike, walleye, and largemouth bass. In an ironic twist, a recent illegal introduction of bluegills has severely impacted the size of the yellow perch.

Gartside Reservoir near Sidney has been rehabilitated three times over the past 25 years to remove black bullheads, yellow perch, carp, suckers, and pumpkinseed sunfish. Nonetheless, more ille-

gal species show up after each rehabilitation attempt.

The problem is serious and wide-ranging enough that many states are now launching educational programs. The Montana Department of Fish, Wildlife and Parks has produced a brochure, "Illegal Introductions, A Fishery Manager's Nightmare," and has published a number of articles such as this. If education is not enough, anglers should be reminded that even the transport of live fish is illegal in many instances. The last Legislature addressed the problem with a new law that will significantly increase penalties with higher fines, loss of hunting and fishing privileges, and restitution, including the cost of removing illegal fish which could run into thousands of dollars. You could do everyone a favor by examining your own practices, educating your fishing buddies, and reporting suspected activities to a FW&P employee or by calling TIP-MONT (1-800-847-6668).

Make sure that the only buckets full of fish are full of dead fish, headed for your freezer.



**Turn in
suspected
illegal
introductions**

**Cash Rewards
Remain Anonymous
1-800-847-6668**



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

**Fisheries Division
1420 E. Sixth Avenue
Helena, Montana 59620
(406) 444-2449**



AMERICAN FISHERIES SOCIETY

MONTANA CHAPTER

SENATE FISH AND GAME
ENTRY NO. 8
DATE 3-11-93
BILL NO. HB 341

House Bill 341

Testimony on Behalf of the Montana Chapter
of the American Fisheries Society
before the
Senate Fish and Game Committee
March 11, 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 House Bill 341. This bill amends present law by prohibiting the possession and transportation of live fish away from the body of water in which the fish were taken. This bill provides a tool to the Department of Fish, Wildlife and Parks in their fight against the illegal introduction of fish into new waters. The illegal introduction of fish by misguided individuals commonly cause ecological disasters that can result in increased license fees and lost fishing opportunities.

Although the Montana Chapter supports House Bill 341, we feel one modification should be made to improve the effectiveness of this proposed legislation. Under the "Statement of Intent" in the present form of the bill, it states that the Fish, Wildlife and Parks Commission shall consider rules that designate locations within the state where legally taken game fish may be transported in live wells away from the body of water in which the fish were taken. Our Chapter recommends that the word shall be changed to the word may. The word shall implies that the Commission must identify areas where live fish can be transported away from the water in which they are taken. Our Chapter feels that there may be areas in the state where live fish could be transported with little concern. However, it also could be determined that the transport of live fish is unacceptable across the state. We hope that the intent of this legislation is not to require the Commission to develop rules that are not in the best interest of the resource.

Starting with Line 21, page 1

AND PARKS DETERMINE IF RULES CAN BE DEVELOPED TO ALLEVIATE SOME OF THOSE CONCERNS SUCH AS PERMITTING ANGLERS TO FILLET THEIR FISH IN THE FIELD AND DESIGNATING LOCATIONS WITHIN THE STATE WHERE LEGALLY TAKEN GAME FISH MAY BE TRANSPORTED IN LIVE WELLS AWAY FROM THE BODY OF WATER IN WHICH THE FISH WERE TAKEN. IF SUCH RULES CAN BE DEVELOPED WITHOUT GREATLY INCREASING THE POSSIBILITY OF DAMAGE TO THE RESOURCE, THE DEPARTMENT SHALL PREPARE THEM FOR PUBLIC REVIEW AND COMMISSION CONSIDERATION IN TIME THAT ANY SUCH RULES ADOPTED BY THE COMMISSION MAY BE INCORPORATED INTO THE 1994-95 FISHING REGULATIONS.

SENATE FISH AND GAME
9
3-11-93
HB 341

Committee Copy

ON THE
ON THE
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TESTIMONY
TO
FISH & GAME COMMITTEE
MONTANA SENATE

March 11, 1993

BY
J. RILEY JOHNSON
FOR

WALLEYES UNLIMITED

Mr. Chairman:

My name is Riley Johnson and I am here today on behalf of Walleyes Unlimited to oppose HB-341 as amended.

Walleyes Unlimited was formed in 1983 in Montana to improve and promote the warm-water fishery in Montana. Walleyes Unlimited has in excess of 1,500 Montana members and enjoys over 300 members in Alberta, Canada. Interestingly, the nationally syndicated radio show, Infisherman Radio, has stated that Montana's Walleyes Unlimited has more dues-paying members in Montana than does Trout Unlimited. Our group is very active, not only in promoting walleye fishing, but in activities to assist the FWP department in building spawning barges, docks and reefs to improve warm-water fishing of all species in lakes like Fort Peck, Frances, Bynum, Tiber, Holter and the like. Walleyes Unlimited is also a financial contributor to the highly-toted TIP-MONT program to curtail illegal fish and game activities in Montana.

Walleye fishermen are a growing special interest in Montana with significant impact on our state's economic picture.

Walleyes Unlimited hosted four national walleye professional tournaments in Montana last year and participated in the highly-publicized Governor's Cup tournament on Fort Peck that brought national, and indeed international, attention to Montana's outstanding walleye fishery. Countless national and international magazine and newspaper articles, as well as numerous television programs, have extolled Montana's superior walleye fishery and the interest among Montana fishermen has ballooned.

Just as fly fishing purists, or trout fishing purists or backcountry purists...walleye fishing purists have specialized equipment and pursue their sport with the same vigor and single-minded dedication. They too are a growing economic force as they travel great distances, utilizing the many tourism

facilities, purchasing specialized boats, rods, reels, trailers and heavy-duty vehicles like pickups and suburbans to pursue their dream. And, this is not to mention the thousands of out-of-staters, particularly Canadians, trafficking into Montana from spring to fall to sample our world-class walleye fishery.

I come before you today to make seven (7) points in opposition to HB-341 as amended.

But, first, I must state that Walleyes Unlimited STRONGLY supports the concept of HB-341 and that is to fight the illegal transportation and transplanting of fish in foreign waters. We have and will continue to contribute time, talent and treasure from our members' dues to fight illegal transplants.

With that said...my seven points of opposition are outlined in the memorandum to Sen. Pipinich which I have passed out to the committee members.

1. Vague and arbitrary language

- a.) Page 1, lines 17 thru 25. "Statement of Intent"
- b.) "...to alleviate some of those concerns."
- c.) What does this vague language mean? Why didn't FWP identify "some of those concerns" and "alleviate" them before writing this bill? Must FWP be directed by the legislature to consider the rights, privileges and concerns of sportsmen in Montana every time it wants to make rules? I always thought the sportsmen were the ones paying the bills at FWP. I get a sense of the "tail wagging the dog" here.
- d.) "...consider rules that will permit anglers to fillet their fish in the field." In FWP jargon this is known as the "head and tail" rule.
- e.) FWP admitted in House Committee that they did not know the extent of the problem with the "head and tail" rule.
- f.) FWP admitted to House committee that without some head and tail rule changes, HB-341 would create serious legal problems.
- g.) Why had not this "fillet" question been ferreted out before HB-341 was brought to the legislature? Why didn't FWP know it was as serious a problem as it is? Why didn't FWP solve one problem with the head and tail rule before creating another problem with HB-341?

2. No proof that live wells contribute to the problem:

- a.) At no time in this debate has FWP proven live wells are the major...or even a serious...problem with illegally transplanted fish. Or by limiting live well use that illegal transplants will be stopped.
- b.) However, Walleyes Unlimited has documented that HB-341 will indeed inhibit and restrict current rights and privileges of thousands of sportsmen in Montana.
- c.) Does FWP not have the same burden of proof as any other governmental agency before limiting or restricting legal activities of citizens?

3. No proof that HB-341 will solve the problem:

a.) FWP drafted and requested the present law to stop illegal transplanting in 1989. With proper enforcement and education, the law will work. Evidently, however, FWP doesn't have the manpower or the money to make it work sufficiently. So I suggest to you that FWP is grasping at straws to try and make it work. And the straws in this case are the fishermen who use live wells.

b.) Will restricting live well use solve this problem? Could the answer lay with something else? Are we going to be back here in 1995 asking to restrict more rights and privileges of another group of sportsmen?

c.) Or, are we merely stabbing in the dark at anything that might resemble a solution and hope something works? Kind of like throwing mud at a wall and seeing what sticks.

4. Discrimination against where sportsmen live:

a.) Page-1, lines 22 thru 25, Statement of Intent: THE COMMISSION SHALL CONSIDER RULES THAT PERMIT ANGLERS TO FILLET THEIR FISH IN THE FIELD AND THAT DESIGNATE LOCATIONS WITHIN THE STATE WHERE LEGALLY TAKEN GAME FISH MAY BE TRANSPORTED IN LIVE WELLS AWAY FROM THE BODY OF WATER IN WHICH THE FISH WERE TAKEN.

b.) Page-2, lines 16 thru 18. "The provisions of this section do not prohibit: (A) THE POSSESSION AND TRANSPORTATION OF LEGALLY TAKEN GAME FISH ACCORDING TO RULES ADOPTED BY THE COMMISSION.

c.) What does that mean? It means to me that we are dividing the state up into regions and will have different rules depending upon where you live. Example: live wells in Fort Peck and Frances and Bynum...but no live wells in Holter Lake...or Georgetown Lake...or Flathead Lake. Sportsmen in Missoula, Helena, Butte and Great Falls will be discriminated against because of where they live.

d.) And further, how do you enforce HB-341? Let's think about a Helena angler coming back from Fort Peck. How does our Helena angler prove his fish came from Fort Peck and did not come from Holter Lake? Or, how about a Georgetown fisherman who uses live well and transports his live fish off the lake to his cabin to fillet and eat? Guilty?

e.) I submit to you we are in danger of discriminating against our own people because of where they live.

5. Fear of arbitrary attitudes of FWP:

a.) The lack of empathy, or even knowledge, of walleye fishermen interests and concerns in drafting and presenting HB-341 is self-evident of FWP's inadequate preparation and arbitrary decision making that we feel could be prevalent in the new rule making authority granted by HB-341 to FWP.

b.) This is not a time to be dividing people and isolating groups of sportsmen that are currently cooperating with FWP to build a better fishery in Montana. This is the time to be working together.

6. Presumption of guilt:

a.) Because a person has a live well in his/her boat, it is presumed that person is guilty of illegal transplanting of fish, and/or is a major cause of illegal transplantation of fish.

b.) HB-341 is like passing law that prohibits a person from carrying a loaded gun in the woods during non-hunting season because you presume that person is going to poach.

c.) To some degree, FWP admits live wells are not the major problem with illegal transplants. It uses the words "BUCKET BIOLOGY", referring to use of live-bait buckets to dump un-used bait fish and perch into foreign waters in its own literature on this problem.

d.) Presumption of guilt, ladies and gentlemen...don't penalize walleye fishermen on a presumption of guilt, just because they are utilizing modern and state-of-the-art methods and equipment recognized worldwide.

7. Elected officials should make decisions on rights:

a.) HB-341 asks the elected, citizen-body of lawmakers (you Senators right here this afternoon) to relinquish its authority concerning sportsmens' rights and privileges and transfer that authority to an administrative body without a preponderance of evidence that such action will in fact rectify the problem.

b.) Walleyes Unlimited suggests these decisions belong with their elected representatives...not with an administrative body that has admittedly ignored a major special interest group in bringing out HB-341.

For these seven reasons, Walleyes Unlimited asks that this committee recognize HB-341 for the hastily written bill it is; and that it is jousting at windmills in an ill-prepared effort to find a solution to a very serious problem.

We therefore respectfully request a motion to "TABLE" HB-341. And, we further request that this committee give FWP a firm and explicit directive to get together with Walleyes Unlimited and any other special sportsmens' interest group or individuals...research the real problem (illegal transplanting fish), develop solutions and come back in 1995 with a bill that will work for everybody.

In conclusion, Mr. Chairman, Walleyes Unlimited makes a simple request...

LET US BE PART OF THE SOLUTION...NOT PART OF THE PROBLEM!

MEMORANDUM

TO: Sen. Bob Pipinich, Chairman
Senate Fish & Game Committee

FR: Walleyes Unlimited
Riley Johnson, Lobbyist

DATE: March 10, 1993

RE: HB-341 -- Prohibiting the transportation of live fish

Per your instructions from our March 6th meeting, I have put down some of our objections and our suggestions on handling HB-341 by Rep. Hal Harper.

OBJECTIONS:

1. As amended by FWP, the bill language is too vague and open to arbitrary subjugation of current sportsmens' rights and privileges by FWP.
2. At no time has FWP proven that the limiting of live-well use would actually curtail the illegal transplanting of fish; yet FWP has targeted live well use as the culprit.
3. The present law is adequate, if it was enforced, but FWP hasn't the time, talent or treasure to make it work...so it is grasping at straws, hoping for an answer.
4. HB-341 as amended may discriminate against sportsmen based upon where they live.
5. The lack of empathy, or even knowledge, of walleye fishermen interests and concerns in drafting and presenting HB-341 is self evident of FWP's inadequate preparation. We fear the same attitude will prevail under HB-341 as amended.
6. HB-341 presumes any fisherman using a live well, as a live well is used today, is guilty of illegal transplanting of fish (presumption of guilt).
7. Our elected representatives are not making these decisions that affect the current rights and privileges of sportsmen under HB-341 as amended.

SUGGESTIONS:

1. Table HB-341.
2. Direct FWP to get together with Walleyes Unlimited and any other special interest or individual, research the real problem (illegal transplanting fish), develop solutions and come back in 1995 with a bill that will work for everybody.

LET US BE PART OF THE SOLUTION...NOT PART OF THE PROBLEM!

EXHIBIT 9
DATE 3-11-93
HB 341

DATE 3-11-93

SENATE COMMITTEE ON

Fish & Game

BILLS BEING HEARD TODAY:

HB 338, HB 341

Name	Representing	Bill No.	Check One	
			Support	Oppose
Bob Carr	DFWP	338	X	
HEIDI YOUNANS	FUP	338	X	
Don Bennett	Russell County Sportsman St. Falls			X
Les Gordon	MGBA	338	✓	
Bork Montanzen	Board of Livestock	338	X	
Walt Whitten	Mich. Deer Soc and P. Bear Sportsman Club	341	X	
Steve Bradshaw	MT. Bowhunters Assn	HB 338	✓	
Clay Landry	M.T.U.	341	✓	
J.V. Bennett	MT. Wildlife Federation	338	X	
RILEY JOHNSON	WALLEYES Unlimited	341		X
Janet Ellis	MT Audubon Reg. Fund	341 338	X X	
AL ELSER	FISH, WILDLIFE & PARKS	341	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY