

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on February 1, 1995,
at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Gerry Devlin, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Don Hargrove (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council
Jennifer Gaasch, Committee Secretary

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

Committee Business Summary:

Hearing: SB 215
Executive Action: None

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

HEARING ON SB 215

Opening Statement by Sponsor:

SENATOR LARRY TVEIT, SD 50, Fairview, introduced SB 215. **SEN. TVEIT** stated SB 215 takes the primary jurisdiction of managing game farms out of the hands of the Fish, Wildlife and Parks and puts it into the Department of Livestock. He stated that there were two bosses now to the game farms and one was more of a boss

than the other one was. He stated that **Doug Sternberg** would briefly explain the bill.

Doug Sternberg stated if the bill was passed under, section 16 of the codification instruction, all sections presently in the game farm code, Title 87 would be renumbered and be part of Title 81. Title 81 was the livestock code. Section 81-1-101 defines department as the Department of Livestock for all sections in Title 81. It was not necessary to repeat the name of the department every time and the department will be the Department of Livestock.

SEN. TVEIT stated there were amendments of the bill (**EXHIBITS #1A & #1B**). He stated they were very important and explained them. **SEN. TVEIT** stated that there was a letter from **Kent Williams** that the committee should read. (**EXHIBIT #1C**) He stated there was a letter of support from **Dr. D.M. Douglas, DVM**, (**EXHIBIT #1D**) **SEN. TVEIT** stated there was a letter from **Gary Marbut**. (**EXHIBIT #1E**) **SEN. TVEIT** handed out a copy of North American Elk to each member. (**EXHIBIT #1F**)

Proponents' Testimony:

Jack Schubarth handed out his written testimony before the meeting. (**EXHIBIT #2**)

Ward Swanson, from **Billings** and has a game farm in **Roundup, Mt.**, stated he had been involved in the industry since 1981. **Mr. Swanson** stated game farms had been a tradition in Montana for many years. He stated the problem was that they were livestock and that the industry was livestock. They handle them as livestock in cases of identification and disease and also transportation as livestock. He stated they want to be regulated by someone who knows and cares about the industry, such as the Department of Livestock. He stated they have tried to address the problems and work them out and this had not been working between the two departments. He stated they wanted the Department of Livestock to regulate them and have primary control. They have not taken away the responsibility of Fish, Wildlife, and Parks (FWP). There would also be an advisory board set up by this bill that would keep FWP involved in the processes. He addressed an amendment with regard to the Montana Environmental Policy Act. He stated it was not a major state action to approve a game farm license unless that application was asking for a game farm permit next to a park, National park, or wildlife refuge. He stated this should be made a state action and not a department assessment as far as when getting a game farm application. **Mr. Swanson** stated the figures of the amounts spent on environmental assessments were in the fiscal note. He stated they felt the constitution guaranteed the declaration of rights. They feel the opportunity would not exist unless SB 215 was passed.

Jerry Haigh, a veterinarian and graduate from the University of Scotland, gave a brief overview of his credentials. He showed some slides at the hearing. He stated in Canada 200,000 elk were slaughtered due to a TB outbreak. That was an inaccurate number that was given. He stated there were only 3,000 elk and over 200,000 elk in North America. **Mr. Haigh** stated there were about 12,000 elk farms in that part of the world. He stated in **EXHIBIT #1F** there was more information pertaining to the number of elk herds in Canada. He stated that in the last 18 months there have been five shipments of live animals to Korea each worth more than \$1 million. The elk industry has saved the farming in Canada. He stated when coming to the United States that situation in which many elk are trying to get in off the Yellowstone and Jackson Hole area. He stated that a lot of those animals are coming into Montana. He stated 1,500 animals were given away. He stated there was only one veterinarian in Alberta, Canada who had been infected with TB because he had sliced open an abscess on an elk without wearing protective gloves. He stated that TB does not seem to maintain in the wild. **Mr. Haigh** stated it was unfortunate about the cases of TB in mule deer in North America and there were three isolated cases in this century and they were all related to cattle. He stated that in 1939 a lot of the animals in Buffalo Park had TB. There has never been a case of TB outside of that park for 15 to 17 years. He mentioned in the last 5 years there were very small numbers of TB found in the United Kingdom. **Mr. Haigh** stated TB was not a disease that was in the wild. He stated the state veterinarian could tell that deer TB could be as readily diagnosed as cattle. He stated that a hybrid appears and the mule deer picks up parasites and it destroys parts of the animal. He stated when state officials move around they do not find the disease and are not able to treat them fully. **Mr. Haigh** stated a lot of the diseased animals are brought in from out of state. (**Mr. Haigh** had an accent and spoke very quickly on the tape and so it was difficult to understand him. jg)

Dave Whittlesey, representing the Colorado Elk and Game Breeders, stated they did this in Colorado. Their brand inspectors inspected every farm, fence, facility, and the antelope. They have not had any problems. They were doing a much better job. They had the same problem as in Montana and they have not had any since.

Steve Wolcott, representing North American Elk Breeders, stated he was the chairman of the advisory committee established by the Colorado legislature and that was the body that was solving the problems. He stated the committee was working quite well. They stated if there was going to be elk farming in Colorado that this was the way to have it.

Marty Boehm, representing Fin and Feathers Game Farm in Kalispell, MT., stated he was a game farmer for 12 years. He stated the animals on their farm were genetically pure and disease-free. Each year they have visitors to their farm of which many of them have never seen an elk. He stated he was also able to produce high quality meat and some of the finest quality medicinal products. He said elk can offer the family farmer an option to something other than subdivision.

Len Wallace, a Darby game farmer, stated he would like to see the clerical, managerial, and administrative problems of the FWP department be dealt with by the game farmers and let the law enforcement handle aspects such as poaching, and the degradation of the law.

Les Graham, representing Montana Game Breeders Association, stated **Mark Mitchell** and **Dr. Siroky** were in the audience to answer any questions that the committee had. He stated he had been involved in the situation regarding game farms for a long time. He stated he had personally been involved in the industry since 1991 and can assure that the industry has gained great strides in coming to grips with the regulations. He stated the bill would put together a council that would consist of all of the agencies involved. He personally felt if a person owned their own land and followed the regulations and did what they were told they had the right to do with their property as they saw fit. He stated SB 215 would be the only way to make the problem go away.

Dave McClure, representing the Montana Farm Bureau, stated game farms were legitimate, productive forms of alternative farming in Montana. They support their right to use their property in a responsible manner. Their members were concerned that the farms do not cause problems with their neighbors. They think game farm animals should be subject to the same animal health requirements as domestic cattle. They believe administering their concerns to the Department of Livestock appears to be a good move. Game farm operations were willing to police their own industry and assess their own operations, not asking for the support of tax revenues. He urged the support of the committee on SB 215.

Chris Mehus, representing the Montana Stockgrowers, stated they support SB 215.

Dan Wepler, owner and operator of Big Cross Ranch and member of the Montana Game Breeders Association, stated he was in support of SB 215.

Arleen Wepler, a game farm operator from Ryegate, MT., stated she supported SB 215.

Dean Dillon, a game farmer from Wolf Point, MT., stated he was in support of SB 215.

Bill Bloom, a game farmer from Miles City, MT., stated he supported SB 215.

Gerri Backes, a game farmer, stated she supported SB 215.

Sherrie Watson, from Miles City, MT., stated she supported SB 215.

Marla Gothie, a game farmer from Roundup, MT., stated she supported SB 215.

Vince Goffuea, a game farmer from Roundup, MT., stated he supported SB 215.

Bruce Barta, from Fairview, MT., stated he supported SB 215.

Richard Hier, a game farmer from Lambert, Mt., stated he supported SB 215.

Frank Kakuk, a game farmer, stated he supported SB 215.

Mike Hier, a game farmer from Lambert, MT., stated he supported SB 215.

Karen Barta, a game farmer from Fairview, MT., stated she supported SB 215.

Mark Diaz, a game farmer, stated he supported SB 215.

Merle Krogeoan, a game farmer, stated he supported SB 215.

Pat Corbett, a game farmer, stated he supported SB 215.

Sharon Krogedal, from Froid, MT., stated she supported SB 215.

Connie Corbett, a game farmer from Sidney, MT., stated she supported SB 215.

Chester Mussetter, a game farmer from Livingston, MT., stated he supported SB 215.

Don Hedges, a game farmer, stated he supported SB 215.

Stuart Dogget, representing the Montana Veterinary Medical Association, stated they supported SB 215.

Scott Schubarth, a game farmer from Great Falls, MT., stated he supported SB 215.

Linda Boehm, a game farmer from Kalispell, MT., stated she supported SB 215.

Ellen Schubarth, a game farmer, stated she supported SB 215.

Myra Bridgewater, from Townsend, MT., stated she supported SB 215.

Jack Schubarth, a game farmer from Vaughn, MT., stated he supported SB 215.

Jack Bridgewater, a game farmer, stated he supported SB 215.

Tami Plouffe, a game farmer from Saco, MT., stated she supported SB 215.

Jason Plouffe, a game farmer from Saco, MT., stated he supported SB 215.

Mark Mitchell, representing Montana Fence, stated he supported SB 215.

Willis Brogan (the last name was unclear on the tape and not on the visitor's register. jg), a game farmer, stated he supported SB 215.

Justin Haveman, from Bigfork, MT., stated he supported SB 215.

Gary Hedges, a game farmer, stated he supported SB 215.

Art Stych, from Froid, MT., stated he supported SB 215.

Delores Mangel, stated she supported SB 215.

Doug Weller, stated he supported SB 215.

Archie Hayden, a game farmer from Dillon, MT., stated he supported SB 215.

Franklin Rigler, stated that he supported SB 215.

Ralph Feeler, from Vaughn, MT., stated that he supported SB 215.

Opponents' Testimony:

Glenn Marx, Policy Director, Governor's Office, read his written testimony. (EXHIBIT #3)

Pat Graham, representing Fish, Wildlife, and Parks (FWP), read his written testimony. (EXHIBIT #4) (EXHIBITS #5, #6, & #7 were passed out to the committee)

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Dave Campbell, representing the United Bowhunter's of Montana, he stated that he was at the committee meeting on Monday and testified for SB 173. He stated that he and other proponents did not get enough time to speak. On behalf of the United Bowhunter's of Montana he presented the committee with copies of the written testimony. He stated he hoped that the committee members had read it. He stated if the members did not he suggested that they do. He stated there was a lot of information in that testimony pertaining to SB 215. **Mr. Campbell** stated he had also provided a copy of the survey that their membership did on game farms. He suggested the committee take the time to read it. He said that one question on the survey asked: "Do you think that the FWP should be involved in overseeing the game farm industry?" He stated 96% said yes. They felt it was a well represented sample of the people throughout the state. **Mr. Campbell** stated the people of Montana hired the FWP. The fee from hunters and fisherman fund the FWP and they look upon them as the overseer for public wildlife and trust. He stated they read SB 215 and they were not impressed. He stated they had heard time and time again from the Senate committee on SB 173 the issue was only about private property rights, specifically of the rights of 93 game farmers and the right the Department of Livestock had over game farms versus the FWP. The reason that SB 215 was here was the only time the game farm went over the FWP was when the game farmer had caused a problem and there needed to be money spent by someone to solve the problem. Remember the FWP was hired by the people and worked for all Montanans. He stated they did not intend to try to go into detail about records of past game farm violations. He stated they all had the record and they speak for themselves. He stated they were serious problems that needed to be dealt with. He stated their organization and the members had always tried to treat the farmers with courtesy and consideration. They realized there were economic woes faced by the farmers and ranchers, however there were economic woes faced by all Montanans. He stated no economic woes gave a person the right to destroy Montana's wildlife heritage by allowing disease and cross-breeding in wildlife herds. **Mr. Campbell** stated this issue of who was to control and oversee game farm operations for the good of all Montanans does not belong to the Department of Livestock and the game farmers. It belongs to all Montanans and that was how it hopefully will be decided. The Department of Livestock and the game farmers have proved their inability and unwillingness to police their own industry. He stated the USDA continuously told all concerned that the only way to eliminate TB in a herd of elk was to kill all of the elk that was contaminated, get rid of the herd. The game farmers and the Department of Livestock were unwilling to do that. They were afraid that it would cost them money. Quite simply, the Department of Livestock had not administrated responsible management. He stated that they were not impressed with **Dr. Siroky's** assessment of the situation because they know that he worked for the Department of Livestock and he was in a biased position. They were horrified in SB 215, page 10, where the

advisory board would be made up of five people who were directly connected to the Livestock Board and the game farm industry. He stated it was not acceptable to people. What was really at stake here were the selfish rights of 93 game farmers versus the people of Montana's public trusts in wildlife. This was no contest because in any democracy the majority rules unless they fail. The people of Montana would no longer stand by and let a selfish few continue to attempt to destroy their wildlife heritage. He stated he could promise them all that they were not impressed with the way that SB 173 and SB 215 were requested from the Fish and Game Committee to the Agriculture Committee. He stated he could also promise them that if SB 215 was not tabled, they would see a fight in the Senate and House floors that had not been seen in awhile. **Mr. Campbell** stated the game farmers had finally awoke a sleeping, angry giant which was the people of Montana. He stated the people would not stand by and watch a chosen few motivated by nothing other than profit destroy the wildlife heritage. He stated they would start a grass-roots campaign against the evils of game farms. **Mr. Campbell** stated to the committee to remember the words "public initiative". If this bill comes out of committee, prepare to hear from the people of Montana. He stated that as a proponent, **Mr. Swanson** had stated game farm animals were classified as livestock and **Mr. Campbell** stated he doubted that a person could get other Montanans to agree with that definition. He said the game farms could not serve two masters. They promised the committee that the second master was not FWP, but the people of Montana. He stated that **Mr. Swanson** had said FWP was in competition with the game farms when it came to hunts. **Mr. Campbell** stated he did not believe that the people wanted to hear that. He thanked the committee for their time.

Jim Richard, stated there had been a fundamental flaw in the proponents' testimony pertaining to game farm animals, particularly that elk and deer were livestock. He stated they were not livestock, and they were wildlife, and they happened to be raised inside an enclosure. **Mr. Richard** stated they were not only wildlife, but a principal threat both by game farm animals to native natural wild animals in Montana. For these reasons both the game farm animals themselves, and because of the animals they were likely to threaten, it was most important that the department that best understands and deals with wildlife, which was FWP, should be the agency that deals with and protects the native wildlife species. He stated it not only gave FWP charge of protecting the wildlife by statute, they believe they was the one agency that had a commitment to follow through on this. He stated the Department of Livestock does not have such a statutory responsibility to protect the wildlife and he stated he did have great faith and admiration for **Director Mortensen**, there was probably less commitment to protecting the wildlife resources than in FWP. Since 1990 there had been twenty-six or more violations within game farms. He stated 106 animals had escaped from game farms in the last 5 to 6 years. Incredibly, 250 wildlife animals have found their way into game farms in the same period of time. They had heard there had been at least six game

farms that had instances of TB and had to go through the quarantine. The game farm industry was an industry that needed a little control. It needed stricter regulation and an agency that had the capacity to regulate. It does not need to be transferred to an department who was less familiar and had less familiar experience with the kinds of issues of game farms. He stated he thought it was interesting that the Department of Livestock would immediately kill any carrier or possible carrier of brucellosis which moves into the state of Montana. He stated it was his understanding that if TB was found in a cattle herd in Montana that the herd was to be slaughtered immediately. Yet with game farms, the Department of Livestock quarantines and does not completely eliminate the TB-infected elk herds, in some cases for years. He stated a former state veterinarian said that the disease testing of livestock was inadequate for wildlife. He stated FWP needed to be more aggressive.

Stan Fraiser, from Helena, stated he was looking at the duties for the Department of Livestock. He stated they did not include watching out for wildlife. The Department of Livestock was in business to promote the livestock industry. He stated in a newspaper article, the Department of Livestock led bison out of the park with hay and then killed them for being near wild elk. Now neither bison nor wild elk have anything to do with livestock. He still had not figured out the reason they had for doing that. He stated that was an example for the reason that they are worried about the duties being controlled by the Department of Livestock. He stated that they were not going to watch out for the innocent wildlife. He stated the history of deer and elk farming had shown problems. There were problems in other states and countries. He stated that anything that could go wrong would go wrong. **Mr. Fraiser** stated when he hears assurances from veterinarians saying not to worry about disease, that they can control it, he thinks of all the good ideas that people thought they could control, and he hopes that the committee would remember rabbits and the fox predator, killer bees, and knapp weed. These were all good ideas and people thought they could control them and it did not work out that way. He thought the game farms needed more oversight, not less. If the Department of Livestock was to be put in charge of the game farms, when Montana loses its TB-free status they would know where to place the blame. That would be on the Department of Livestock and this SB 215.

David Brown, representing the Montana Bowhunter's Association, stated they were opposed to SB 215. They think that private property rights were understandable here and they all know that was the issue. They thought that the existing regulations should be supported and see that they work. He stated that they thought that a management strategy should be developed, and now it appeared as though the best way that the game farmers would go about that would be to divide and conquer. He urged the committee to table SB 215.

Dave Simpson, representing Fish, Wildlife, and Parks Commission, stated that he supported the testimony offered by **Glenn Marx** and **Pat Graham**. He stated that prior to the legislative session the FWP commission met with members of the Board of Livestock and tried to identify several issues for the session. He stated they identified several issues, among them having a short-term moratorium and bringing regulations back into the place. All of that had gotten lost with SB 215 and SB 173. He stated that it set back the advancement of the regulatory program in game farms. The other point he wanted to address was that **Glenn Marx** took the committee back 2 years and he wanted to take the committee back further. He stated that 22 years ago there was a bill in the house to ban surface coal mining in Montana. It failed by one vote. The people of Montana said to the legislature that surface mining should be acceptable in Montana. He stated that it was a hot issue in its day and game farming was today. He stated that the industry would survive, but a strong regulatory program was important. He stated that FWP, working with the Department of Livestock, could develop a regulatory program and he urged the committee not to abandon that.

Janet Ellis, representing the Montana Audubon Legislative Fund, submitted an underlined bill of her concerns. She stated that she hoped that the committee could come to a compromise with the two bills that had been heard that week. **(EXHIBIT #8)**

Tony Schooner, representing the State Land Coalition, stated that they opposed SB 215 primarily because elk and deer were not livestock. He stated that once the livestock industry started regulating game farms, who would be to say that they would not regulate the time of the hunting seasons and everything else.

Bill Holdorf, representing Skyline Sportsman in Butte, MT., stated that they were opposed to SB 215. He stated the way that it was now, FWP was represented by all of the people in the United States. He stated that the bill came for personal gain for the Department of Livestock.

Bob Bugni, representing the Prickly Pear Sportsman Association, stated their concern was about transportation. He stated that having the Department of Livestock controlling the management of game farms was not the best interest for their wildlife resources. He stated it was not the job of the Department of Livestock to protect wildlife. He stated that the sportsman would not look upon the transfer favorably and there would be growing resentment between the game farmer and the sportsman.

Mike Vashro, read his written testimony. **(EXHIBIT #9)**

Joe Gutkoski, submitted his written testimony. **(EXHIBIT #10)**

Steve Wilson, representing the RCF&W in Hamilton, MT., stated he was opposed to SB 215. He stated that they were opposed to the bill because that was the inadequacy of the Department of Livestock and the separating of livestock.

L.F. Thomas, representing an Anaconda sportsman, stated that they were opposed to SB 215.

Leslie O'Neil, a wildlife photographer, stated she opposed SB 215.

Doug Powell, stated he opposed SB 215. He stated that livestock should be controlled by the Department of Livestock and wildlife should be controlled by FWP.

Informational Testimony:

None

Questions From Committee Members and Responses:

SENATOR DON HARGROVE asked **Dave Campbell** what the compelling interest was of the bowhunter's that sent him here to threaten the committee with a fierce, glorified, public petitions and public outrage throughout the state? **Dave Campbell** stated they did not feel that the politics involved in getting the bill to the Agriculture Committee were proper. He stated that it seemed like it was an effort to get away from the Fish and Game Committee and the people in Montana have a great interest in Fish and Game. **Mr. Campbell** stated the people have a great interest in the wildlife in Montana. He stated that he did not threaten the committee. Basically what was indicated was if the committee thought they could handle the issue that would be the end of it, that was a sad mistake, because he thought that there was really a sleeping giant there and the people have sat back and most of them do not know what was going on. They will become concerned.

SENATOR BOB PIPINICH stated to **Mr. Campbell** that he did threaten the committee and **SEN. PIPINICH** stated he thought the committee did not like it.

SEN. PIPINICH asked the **Department of Livestock, Dr. Siroky,** three questions and then asked for him to respond. **SEN. PIPINICH** asked if the Department of Livestock had the same concerns for TB in game farm elk as they do with cattle? He asked if the Department of Livestock would require the immediate slaughter of a cattle herd if there was TB found in the herd? **Dr. Siroky** stated they have the same concern for elk as for cattle. He stated elk representing an indemnity program because of the cattle indemnity program because of they can go in and wipe out the entire herd. He stated not the elk because they were not under the same program. **SEN. PIPINICH** asked if the Department of

Livestock would have more control than the Fish and Game Department? **Dr. Siroky** replied that if they had an indemnity program for elk, they would not have the argument. **Dr. Siroky** stated that as far as the disease control, the Department of Livestock had always been the organization that was responsible for disease control in animals in the State of Montana. **SEN. PIPINICH** stated there were a bunch of animals that had escaped out of the game farms. He asked **Dr. Siroky** if he felt they had the authorization to track the animals down? He stated there were three or four escapes from the game farms. He asked **Dr. Siroky** if they would have to turn it over to the Fish and Game or would the Department of Livestock do that? **Dr. Siroky** stated he believed SB 215 turned the responsibility over to FWP.

SENATOR TOM BECK asked **Dave Simpson of the Fish, and Wildlife Commission**, if the commission wanted good healthy game farms to be well regulated? **Dave Simpson** stated that he was only speaking for himself. As a commissioner he had responsibility to uphold the laws. He stated that game farming required a certain amount of regulation. He said it was his responsibility to see that the laws were followed. **SEN. BECK** stated that one of the things which appears to him was the game farmers were looking for a way out because they probably thought that regulations were too binding. He asked if **Mr. Simpson** was willing to look at what was transpiring at the present time as a member of the commission? **Mr. Simpson** replied he was.

SENATOR GERRY DEVLIN asked **Pat Graham** to come up for a question. **SEN. DEVLIN** stated that **Mr. Campbell** having to the Fish and Game Committee stated that there were three members on the Agriculture Committee that served on the Fish and Game committee 2 years ago. **SEN. DEVLIN** asked **Mr. Graham** what kind of expertise did his department have for the job of regulating game farms? **Mr. Graham** replied he could not refer to that in terms of the areas the expertise were in importation, and regulation in 1983. Regulations were sparse. He stated that he did not know that it required a lot of expertise back in 1983. **SEN. DEVLIN** asked if they did not really have anyone on board with a lot of expertise in regulating game farms at that time. **Mr. Graham** replied they had that responsibility. **SEN. DEVLIN** asked how long it took to get a game farm permit. **Mr. Graham** replied that it varied and it was statutorily laid out the amount of time they have to go through the process. **SEN. DEVLIN** asked how long that took? **Mr. Graham** replied that it depended on if an environmental assessment (EA) was required or an environmental impact statement (EIS). He stated that it takes longer when an EIS was requested. **SEN. DEVLIN** asked if he knew the longest, or the shortest, or the average? **Mr. Graham** referred the question to **Karen Zackheim, the game farm program coordinator for FWP**. She stated she would have to say most of the applications take from 3 to 4 months. The department had 30 days to review an application when it was submitted, there are times when the application has to be returned because it was not complete. When the application was complete they then begin and prepare an EA. They have 120 days to

prepare the assessment, do public meetings and public notification, and then make a decision. She stated it typically takes 3 to 4 months to go through the process.

SEN. JERGESON asked **Les Graham** a question relating to the statements by game farmers that the turn-around on their operations was similar to or helped prevent them from going into subdividing places. So in your review of the industry that you are representing, was it your impression that the cash flow opportunities were significantly greater than those in typical and traditional livestock operations. **Les Graham** stated in all honesty he would have a hard time answering the question directly. He said he could say quite probably you can see that simply similar to dairy farming. He stated you could have an agricultural operation on a much smaller area than you could with traditional livestock. The investment in getting that was so much greater in terms of testing, fencing, and regulations. He stated that even though they can operate on a smaller area, the regulations are much tougher and the investment would be much higher. **SEN. JERGESON** stated currently the property taxes on grazing land were determined based on the AUM of cattle and the average of their value over time. Are there any valid comparisons on what the capacity on game farms and the value of the crop that would be produced there and how that would relate to a cash flow basis which was how agricultural land was valued for property tax purposes in the state of Montana? **Les Graham** asked permission to defer the question to **Ward Swanson**. **Les Graham** said in terms of the animals under state law, they are classified as livestock both at the county and state level. **Ward Swanson** stated that as far as the carrying capacity it would be 2½ to 3 more elk per 1 cow. **SEN. JERGESON** stated that the carrying capacity would be for 1 cow for 1 elk, you can run 2½ to 3 times as many elk? **Ward Swanson** replied that was correct. **SEN. JERGESON** said that his fear was what the value was of an elk as compared to a cow? **Ward Swanson** replied that he suspected the value of most would be \$5,000 for elk as opposed to receiving \$500 to \$1,000 for cows.

SEN. BECK asked **Pat Graham** what kicks in an EIS? **Pat Graham** replied basically a determination that if there would be environmental impact. It would be to see if there should be a deeper environmental investigation. **SEN. BECK** asked in all the game farms that had been admitted, according to **Glenn Marx**, have there been an EIS done on any of those? **Pat Graham** said there were three that had been required to have an EIS. **SEN. BECK** asked if those permits were still on hold at the present time? **Pat Graham** answered that was correct. **SEN. BECK** asked how long had that process been going on and how many months had the person been waiting for the permit due to the EIS? **Karen Zackheim** replied the applications were closed and there were withdrawn because they did not want to follow through with the EIS.

SEN. HARGROVE questioned **Pat Graham** in regard to the fiscal note. He asked for clarification that the Department of Livestock was going to require 2½ full-time people to administer the program and the FWP does not use any or at least would not free up anyone to do that. Can you explain why that seems to be a discrepancy? **Pat Graham** stated the request by the Department of Livestock was their interpretation of what it would take to would administer the program.

CHAIRMAN CHUCK SWYSGOOD thanked the people that came all the way for an excellent hearing. **CHAIRMAN SWYSGOOD** stated to **Mr. Campbell** that he felt he did in fact threaten the committee and it saddened him because **Mr. Campbell** cast a doubt upon an excellent hearing. Not so much for himself, but for the members of his committee which interferes with their ability and integrity to judge a bill and base it on its merit. He asked the sponsor to close.

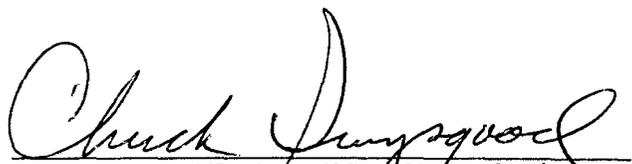
Closing by Sponsor:

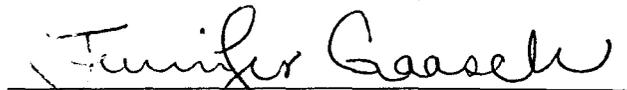
SEN. TVEIT asked the committee to turn to (**EXHIBIT #1E**). He read the letter from the **Montana Shooting Sports Association**. He stated that there were a few changes under SB 215. He stated that primacy changes, but it would not shut FWP out. He stated that there were many parts of the bill that let FWP keep control of the animals. He stated he was saddened by the Governor's office saying the Board of Livestock was not qualified. He stated he thought the Department of Livestock and the Board were outstanding. FWP stated that it took them a lot of money to manage the game farms and he said that he could see why, because he had the opportunity to witness four people in a car go to inspect around 30 acres of game farming to check on a fence. He said that there was a concern of the amount of money being spent because that was hunters' and fishermen' money they use to manage game farms. He stated for that reason, under the bill they were willing to pay the price to regulate better management. There were more amendments offered by the Governor's office that give FWP more responsibility than they have at the present time. He expressed concern for the amendments. He stated **Stan Fraiser** talked about the shooting of buffalo were legal livestock and they were shooting them on purpose because of the elk herds close by, but they were doing it for livestock and brucellosis. The game farms do not want less regulations. They feel that under the Department of Livestock they could work with those people better. The Department of Livestock in other states was handling game farms and it was working well. He stated they worked a long time on SB 215 and there could be some amendments and they were willing to work on the bill. He hoped the committee would favor SB 215.

CHAIRMAN SWYSGOOD appointed subcommittees to the members of the committee. He stated SB 215 and SB 173 would be one subcommittee consisting of the Chairman of the committee being **SEN. DEVLIN**, **SEN. HARGROVE** AND **SENATOR LINDA NELSON** would be the members. SB 144 would be in a subcommittee with the Chairman of the committee being **SENATOR SWYSGOOD** and the members being **SEN. JERGESON** and **SEN. HOLDEN**. SB 116 would be put in a subcommittee with the Chairman being **SEN. BECK** and the members being **SEN. JABS** and **SEN. PIPINICH**.

ADJOURNMENT

Adjournment: 2:50 p.m.


CHUCK SWYSGOOD, Chairman


JENNIFER GAASCH, Secretary

CS/jg

Amendments to Senate Bill No. 215
Introduced Reading Copy

Requested by Senator Tveit
For the Committee on Agriculture

A
SENATE AGRICULTURE

EXHIBIT NO. 1 A

DATE 2-1-95

BILL NO. SB 215

Prepared by Doug Sternberg, Legislative Council
January 31, 1995

1. Page 1, lines 24 and 25.
Following: "animals" on line 24
Strike: remainder of line 24 through "animals" on line 25
2. Page 2, line 5.
Following: "~~livestock~~"
Strike: "relating to marking, inspection, transportation, and health"
3. Page 3, lines 26 and 27.
Following: "license." on line 26
Strike: remainder of line 26 through "application." on line 27
4. Page 3, line 30.
Following: "or"
Insert: "inspect or copy"
5. Page 4, line 1.
Following: "books"
Insert: "or records"
6. Page 5, lines 10 and 11.
Following: "parks" on line 10
Strike: remainder of line 10 through "inspection" on line 11
7. Page 5, line 18.
Strike: "3"
Insert: "5"
8. Page 5, line 25.
Strike: "Within 2 weeks after January 1"
Insert: "By January 15"
9. Page 6, line 4.
Following: "notification,"
Insert: "the department or"
10. Page 6, line 20.
Following: "subspecies"
Strike: remainder of line 20
Insert: "that poses"
11. Page 6, lines 21 and 22.
Following: "livestock" on line 21
Strike: remainder of line 21 through "disease" on line 22

12. Page 9, line 27.
Strike: "department"
Insert: "board"

13. Page 10, lines 13 through 15.
Strike: subsection (5) in its entirety

B

Amendments to Senate Bill No. 215
Introduced Reading Copy

SENATE AGRICULTURE

EXHIBIT NO. 1 B

DATE 2-1-95

BILL NO. SB 215

Requested by Senator Tveit
For the Committee on Agriculture

Prepared by Doug Sternberg, Legislative Council
January 31, 1995

1. Title, line 11.

Following: "87-4-408,"

Insert: "87-4-409,"

2. Page 2, line 6.

Insert: "Section 3. Section 87-4-409, MCA, is amended to read:

"87-4-409. **Application for license -- limitations on issuance.** (1) A person desiring to obtain a game farm license shall make written application to the department on forms provided by the department. The application shall specify:

- (a) the applicant's name;
- (b) the applicant's address;
- (c) the name and address of the individual who will be the principal manager of the game farm;
- (d) the exact legal description of the land upon which the game farm is to be located, together with the nature of the applicant's title to the land, whether in fee, under lease, by contract for deed, or otherwise;
- (e) the species of game farm animals proposed to be kept or reared on the game farm;
- (f) the type of facilities contemplated and the location of perimeter fencing;
- (g) the source from which the applicant intends to acquire the game animals;
- (h) if the applicant is not a Montana resident, the name and address of a Montana resident designated by the applicant as the applicant's local agent;
- (i) if the applicant is a corporation, the full names and addresses of all stockholders owning more than 10% of the stock in the corporation; and
- (j) information demonstrating that the applicant is responsible.

(2) Within 30 days of receipt of an application, the department shall notify the applicant in writing whether the application:

- (a) is in compliance and is accepted as complete; or
- (b) is not in compliance and shall list any deficiencies that must be corrected before the application is in compliance. The department shall return any noncomplying application to the applicant, who may resubmit the application upon correction of the deficiencies.

(3) Within ~~120~~ 60 days of the acceptance of a complete application, the department shall notify the applicant of its proposed decision to approve, approve with stipulations, or deny the application. ~~if the department determines that the preparation of an environmental impact statement is required by~~

~~Title 75, chapter 1, and by department rules adopted pursuant to the Montana Environmental Policy Act, then the department has an additional 180 days to act on the completed application.~~
Notwithstanding the provisions of 75-1-201, if the applicant meets the licensing criteria set forth in this section, the issuance of a license by the department is not considered a major action of state government, as that term is used in 75-1-201(1)(b)(iii), unless the application is for a game farm on land adjoining a park, national park, or wildlife refuge. If required fencing has not been completed, the department shall approve the application subject to completion and approval of the fencing. If the application is denied or approved with stipulations, the department shall specify the reasons for denial or stipulations."

Renumber: subsequent sections

3. Page 10, lines 21 and 22.

Strike: "15"

Insert: "16"

KENT B. WILLIAMS

SENATE AGRICULTURE

EXHIBIT NO. 10DATE 2-1-95BILL NO. SB 215

1-27-95

MONTANA GAME BREEDERS ASSN.
MR. LES GRAHAM

DEAR LES:

AS I HAVE DISCUSSED WITH YOU AND BOB SPOKLE I AM GETTING OUT OF THE GAME FARM BUSINESS AND ELK BREEDING IN PARTICULAR IN PART DUE TO THE CONSTANT STATE OF CHANGE WITHIN THE STATE AND THE UNCERTAINTY OF THE FUTURE OF THE INDUSTRY.

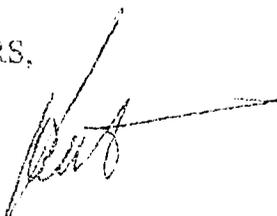
I GOT INTO THIS ENDEAVOR OVER FIVE YEARS AGO WITH A PERSONAL COLLECTION OF OVER 26 DIFFERENT SPECIES. BECAUSE OF EARLIER RULES AND REGULATIONS I HAD TO DISPOSE OF THE OTHERS, BUT HAD HOPED TO KEEP RAISING THE ELK ON MY RANCH HERE IN COLUMBUS.

NOW THAT THE LEADERSHIP OF THE FISH AND GAME DEPARTMENT HAS WORKED THE SPORTSMEN AND ANIMAL RIGHTS PEOPLE INTO THEIR AGENDA I FEEL AS THOUGH I AM OPERATING A LEGAL "HOUSE OF PROSTITUTION" HERE AND IT WILL BE ONLY A MATTER OF TIME BEFORE SOME UNFORTUNATE SITUATION HAPPENS. AS YOU KNOW, WE HAVE ALWAYS TAKEN GOOD CARE OF OUR ANIMALS. OBVIOUSLY BY GETTING OUT OF THE BUSINESS WE WILL NO LONGER BE SPENDING THE FUNDS TO BUILD THE OPERATION.

WE HAVE NOT HAD ANY TROUBLE WITH OUR LOCAL WARDEN, WHOM WE HAVE ALWAYS FOUND TO BE MOST HELPFUL IN ASSISTING US IN MEETING THE REQUIREMENTS OF THE FISH AND GAME WITH HEALTH TESTING, INVENTORY INSPECTIONS, MARKING, AND TAGGING.

I WISH YOU WELL AND HOPE THAT YOU CAN ALL GET TOGETHER SO THAT THE REPUTABLE BREEDERS CAN STAY IN BUSINESS IN MONTANA.

SINCERELY YOURS,



SENATE AGRICULTURE

EXHIBIT NO. 1 D

DATE 2-1-95

BILL NO. SB 215

January 26, 1995

To Whom It May Concern:

At the 1995 Winter Meeting of the Montana Veterinary Medical Association in Bozeman, January 19-22, the following resolution was adopted:

WHEREAS, the Game Farm Industry is a viable industry in Montana,

WHEREAS, this industry seeks and utilizes professional veterinary services,

BE IT RESOLVED, that the Montana Veterinary Medical Association supports Senate Bill 215, the Game Farm Industry Bill, which authorizes said industry to be governed by the Montana Department of Livestock.

Sincerely,



D.M. Douglas, DVM
Immediate Past President
Montana Veterinary Medical Association



Montana Shooting Sports Association

P.O. Box 4924 • Missoula, Montana 59806 • (406) 549-1252 • FAX (406) 251-3824

Asserting the Rights of Gun Owners in Montana

SENATE AGRICULTURE

EXHIBIT NO. 1E

DATE 2-1-95

BILL NO. SB 215

Officers

Gary S. Marbut
President

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Vice President

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Treasurer

Directors

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Bozeman
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Missoula

James M. McDonald
Missoula
John M. Mercer
Sidney
Brian Sipe
Kalispell
Judy Woolley
Plains

January 26, 1995

Senator Larry Tveit
Montana Senate
Capitol Station
Helena, Montana 59620

Dear Senator Tveit,

The Montana Shooting Sports Association is a state-wide organization of gun owners and hunters.

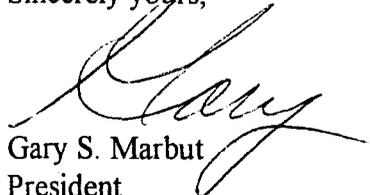
We are familiar with your SB 215, to transfer administration oversight of game farms from FWP to the Department of Livestock. MSSA supports SB 215.

We believe that regulation of game farms is not consistent with the focal mission of FWP to regulate, protect and enhance the state's public wildlife resources, and to manage the hunting opportunities related to Montana's public game animals. As game farms have evolved, they appear and operate much more like livestock operations, and are area of activity that should be well within the expertise and mission of the Department of Livestock.

Further, there are too many Montana ranches coming to be owned by the Ted Turners and Jane Fondas of the world. If family-owned Montana ranches cannot pay taxes and mortgage payments on the slim profits from beef or sheep, but the land can be kept in Montana-based ownership by raising game, we believe that is a far better alternative than losing ranches to out-of-state buyers. Supervision of game farms by DOL, we believe, would help insure that this opportunity remains open to Montana landowners.

You are welcome to copy this letter and share it with the committees that will hear SB 215, or to cite our support for SB 215 on the floor of the Senate or House.

Sincerely yours,



Gary S. Marbut
President



NORTH AMERICAN ELK

Winter 1995

Quarterly Journal of the North American Elk Breeders Association, Inc.



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

Huxol

(magazine)

SENATE AGRICULTURE

EXHIBIT NO. 2

DATE 2-1-95

B'L' NO. 8B 215

SENATE COMMITTEE MEMBERS

THANK YOU FOR TAKING THE TIME TO READ MY FAMILIES
PLEA TO SAVE OUR FARM AND WAY OF LIFE, THAT BEING
GAME FARMING. PLEASE LET FACTS ALONE PROVE THIS IS
A VIABLE INDUSTRY. THANK YOU VERY MUCH.

THE AGENDA OF MR KLAMPE'S BILL SEEMS TO CENTER ON THE INDUSTRIES ABILITY TO BE ABLE TO BE DISEASE FREE, HYBRID FREE, AND NOT TAKE AWAY MY PRIVATE LAND FROM THE PUBLIC WILDLIFE'S FREE FOOD BASE, AND THE HUNTERS ACCESS TO PRIVATE GROUND IN MONTANA. IT WOULD SEEM THAT THIS IS REALLY THE MAIN FOCUS, AND DISEASE AND HYBRIDS ARE JUST GOOD PUBLIC RALLY POINTS TO FOCUS ON. THE DISEASE PROBLEMS ON GAME FARMS POSE NO MORE THREAT THAN THE CATTLE INDUSTRY WOULD HAVE FOR OUR NATIVE WILDLIFE. THE STATE HEALTH EXPERT, DR. SIROKY AND OTHER ANIMAL HEALTH EXPERTS HERE TODAY HAVE STATED THIS. THIS WOULD INDICATE TO PEOPLE INTERESTED IN FACTS AND FACTS ALONE THAT THIS ATTEMPT AT MAKING DISEASE A ISSUE IS NOT A VALID ISSUE. HYBRIDS IN THE ELK ON GAME FARMS HAVE BEEN TAKEN CARE OF AS ANY RELIABLE INDUSTRY WOULD DO AT OUR EXPENSE. YES WE KNOW THE TEST HAS A 6.25 % INACCURATE TO IT. THAT IS WHY OUR INDUSTRY WILL CONTINUE TO TEST ALL OFFSPRING PRODUCED EACH YEAR. THIS WILL ASSURE THE HIDDEN PARENTS WILL BE FOUND SO THAT THEY MAY BE REMOVED FROM OUR STATE IF AND WHEN ANY ARE

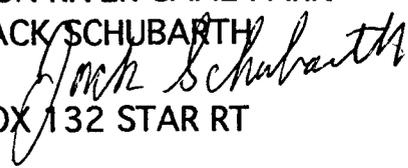
FOUND. THIS IS THE WAY A RESPONSIBLE INDUSTRY REACTS TO A PROBLEM. WITH FACTS NOT EMOTION AND FEAR AS MR. KLAMPE AND HIS PEOPLE HAVE. NOW WE GET DOWN TO THE REAL FEAR THAT THIS PREDOMINATE GROUP OF HUNTING PEOPLE ARE REALLY CONCERNED WITH. THAT IS THE PRIVATE PROPERTY THESE PEOPLE WANT TO HUNT ON. THE FACT THE GAME FARMER HAS TO FENCE OUT THE PUBLIC WILDLIFE IS VIEWED AS A LOSS OF HABITAT FOR WILDLIFE AND A LOSS OF PRIVATE GROUND TO HUNT ON, BOTH BY THE HUNTER AND FISH AND GAME. THE FACT THIS VIEW IS SHARED BY THE AGENCY THAT REGULATES THIS INDUSTRY IS REASON ENOUGH TO PUT US UNDER THE DEPT OF LIVESTOCK. THE AGENCY THAT SHARES IN OUR FUTURE HAS IT'S OWN AGENDA TO PROTECT. THAT IS HUNTING AND WILDLIFE HABITAT. OUR INDUSTRY IS BEING CONTINUALLY ATTACKED BY THE REGULATORY AGENCY. THE GROUND WORK WAS FED TO THE PUBLIC BY THE FISH AND GAME TO ELIMINATE GAME FARMING, IF YOU SAY YOU DON'T BELIEVE IT PLEASE SHOW ME ONE POSITIVE STATEMENT EVER PUT IN THE PRESS, TV, RADIO BY THIS REGULATORY AGENCY TO HELP THE INDUSTRY THEY WOULD BE EXPECTED TO SUPPORT. THERE HAS BEEN VIRTUALLY NO GROWTH IN THIS INDUSTRY,. IN FACT A 10 TO 20% LOSS IS WHAT THIS REGULATORY AGENCY HAS CAUSED US. THIS AGENCY SINCE 1992 HAS BEEN TRYING TO ELIMINATE THE GAME FARM INDUSTRY. IT MUST

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BE AGAINST THE LAW, OR AT LEAST A CONFLICT OF INTEREST FOR YOUR REGULATORY AGENCY TO ACT LIKE THIS. COMMITTEE MEMBERS PLEASE SUPPORT SB 215 SO THIS PRIVATE LIVESTOCK INDUSTRY CAN GROW. PUT US UNDER AN AGENCY THAT WANTS GROWTH AND THE FAMILY FARM TO SUCCEED. LEAVE ALL THE LAWS AND RULES BUT PUT US UNDER AN AGENCY THAT HAS NO HIDDEN AGENDA.

SUN RIVER GAME PARK

JACK SCHUBARTH


BOX 132 STAR RT

VAUGHN MT 59487

406-467-2910

EXHIBIT 2
DATE 2-1-95
SB 215

CANNED HUNTS OR HARVEST MANAGEMENT IT ALL DEPENDS ON YOUR VIEW

PEOPLE WITH THE AGENDA TO EQUATE WILDLIFE HUNTING AS THE ETHICAL HARVEST OF ANIMALS FOR FOOD WITH SOME KIND OF NATURE EXPERIENCE WHICH IN THEIR MINDS MAKES THIS A NOBLE EXPERIENCE WHICH SOMEHOW ELEVATES WHAT HAS JUST HAPPENED. WHAT HAS JUST HAPPENED WAS THE HUNTER OF FREE RANGING WILDLIFE HAS JUST KILLED A ANIMAL FOR FOOD PERIOD. AS A HUNTER MYSELF I KNOW I HARVESTED MY FAMILIES FOOD FROM NATURE NOTHING MORE NOTHING LESS.

THE MANAGEMENT OF THE ANIMALS ON A GAME FARM HAS NO REASON TO BE HELD UP AS A EQUAL OF LOWER QUALITY OF HUNTING AS IT IS NOTHING MORE THAN A MANAGEMENT TOOL TO REDUCE THE NUMBER OF MALE ANIMALS. THIS IS NOT A HUNT IT IS A HARVEST MANAGEMENT TOOL FOR GAME FARMS. THIS IS EXACTLY WHAT THE CATTLE INDUSTRY DOES WITH THE MALES THEY PRODUCE, EXCEPT THEY SEND THEIR ANIMALS TO A SLAUGHTER HOUSE. THIS INDUSTRY IS ABLE TO SELL THEIR ANIMALS DIRECTLY TO THE CONSUMER FOR THE MOST PROFIT TO THE PRODUCER. PEOPLE ARE HAVING TROUBLE BOTH EMOTIONALLY AND PSYCHOLOGICAL SEPERATING THE ANIMALS RAISED ON A GAME FARM FROM THOSE WHICH ARE RAISED IN THE WILD. PEOPLE WANT THE SAME VIEW TO EXTEND TO THE GAME FARMED RAISED ANIMAL AS THEY NOW HAVE FOR THE WILD ANIMAL. THIS IS NO LONGER A OPTION IF WE ARE GOING TO DOMESTICATE THIS ANIMAL AND USE IT LIKE CATTLE OR SHEEP. THE PROCESS OF DOMESTICATION WILL NOT ALLOW US TO VIEW THE ELK AND DEER WITH A WILDLIFE VIEW, IT WILL HAVE TO BE VIEWED AS TWO TYPES OF ANIMALS THAT LOOK THE SAME. THAT VIEW IS A WILD ANIMAL AND A DOMESTIC ONE. IF WE CAN LOOK AT THESE ANIMALS IN THAT WAY I'M SURE THE HUMANE HARVEST OF OUR EXCESS ANIMALS IN THE FORM OF MANAGEMENT TOOL IS NO LESS ACCEPTABLE THAN THE WAY CATTLE OR SHEEP PRODUCERS ELIMINATE THEIR EXCESS MALE POPULATION. NOR ANY LESS ACCEPTABLE THAN THE FISH AND GAMES HARVEST DURING THE HUNTING SEASON. IT REALLY IS JUST A MATTER OF VIEW.

SUN RIVER GAME PARK
JACK SCHUBARTH



BOX 132 STAR RT
VAUGHN MT 59487

Testimony on Senate Bill 215
Senate Agriculture Committee
February 1, 1995
Glenn Marx, Policy Director, Governor's Office

Mr. Chairman, for the record my name is Glenn Marx and I serve as policy director on the staff of Governor Marc Racicot.

Game farms are a legitimate business in Montana. Governor Racicot has said repeatedly that private property rights are the foundation of our democracy. Standing here as an opponent to SB 215 should not be interpreted to mean opposition to the game farm industry or opposition to the Montana Game Breeders Association.

With the approval of the Governor, the Department of Fish, Wildlife & Parks has prepared a series of amendments which if accepted, will make the Racicot administration not only continued supporters of free enterprise and reasonable regulation of game farms, but supporters of SB 215, as well.

Let's turn back the clock for a moment. It is 1993. The Legislature is in session. House Bill 338 is introduced. Created and hailed as a compromise, the bill sails through and is signed into law. Ward Swanser, representing the Montana Game Breeders Association, writes and tells the Department of Fish, Wildlife & Parks that through the bill "everyone got some of the things they wanted...it must be a good settlement because neither side is satisfied."

Now fast forward to 1995. The settlement has fallen apart and everyone involved with the issue of game farms is angry. I mean everyone. So I'm trying to think...what has happened in two short years to turn such the promising solution of 1993 into the hostile battleground of 1995?

It is no secret the game farm industry blames the Department of Fish, Wildlife & Parks. Game breeders claim the department has been dishonest with the media, has been spreading lies to the public, doing its best to outright over-regulate an industry out of existence, harassing game farmers, and worse. Horror story after horror story about deliberate department antagonism toward an entire industry. In fact, the Montana Game Breeders Association is so angry and so fed up they have written and introduced a bill to fix what they see as the worst problem facing their industry: Fish, Wildlife & Parks regulation.

An industry hamstrung and handicapped by oppressive regulation surely must be struggling. Right?

Not exactly. A brochure distributed by the Montana Game Breeders Association says that "Game breeding in Montana is taking off and growth is phenomenal." The brochure says in 1994 the game breeding industry achieved a 30 percent increase over the previous

year, to just under five million dollars. It says "the industry's economic impact in Montana is increasing by leaps and bounds." Between 1993 and 1994, the industry "realized a whopping 79 percent growth in stock sales," and "between 1991 and 1994 antler sales grew 57 percent." With this growth rate, "the economic potential of game breeding is outstanding."

So game breeders are not only surviving, they are thriving. That's good. Montana enjoys one of the fastest growing economies in the nation and the game farm industry is playing a significant role in this economic boom.

And to be quite honest, Fish, Wildlife & Parks looks to be doing its share, too. In fiscal year 1993, the department granted 10 new or expanded game farm permits. Not a single game farm permit application was denied. Not one. Not one game farm permit application was denied in FY 1994. One was postponed for six months, but it was approved. Not one game farm permit has been denied in FY 1995. In 1993, 102 permit renewals were approved. None were denied. In 1994, 90 permit renewals were approved. None were denied.

So since the fragile and cooperative compromise was put in place in 1993, the industry has enjoyed unprecedented growth. Perhaps no single industry in Montana has matched the growth of game farming. And not a single game farm permit application or renewal has been turned down by the Department of Fish, Wildlife & Parks. The permits were earned, certainly, but once earned, they were granted.

Sadly, something else has prospered since 1993. Tuberculosis. Since 1991, in six different places in Montana, six different game farms have been stricken by the tragedy of tuberculosis. In fact, every year since 1991, the appalling and dreaded sphere of tuberculosis has struck Montana.

The worst case, of course, was at Elk Valley near Hardin. Outside of the game farm, on neighboring private and public lands, the Department of Livestock and Department of Fish, Wildlife & Parks coordinated a program to slaughter and test about 120 deer, including 15 fawns, and six other Montana wildlife species, to find out how far the disease had spread. While additional tuberculosis was later detected inside the ranch in the game farm elk, after the initial deer, only a single coyote tested positive for tuberculosis outside the game farm.

So where does all this bring us? It brings us back to the original issue: game farm regulation.

And here is the question it brings us to: how should the regulation be shared by the two departments?

And that's a good question. The best news is, it was already answered in 1993.

Let me give you six reasons why the Department of Fish, Wildlife and Parks should retain primacy in game farm regulation as created in 1993. And let's be honest. The central issue of this bill is which agency grants and enforces a game farm permit.

Reason 1) Here are three critical evaluations of a game farm permit application. A--is there loss or destruction of habitat for an endangered species? B--is there blockage or disruption of wildlife migration corridors? C--is there unacceptable threat of escape and creation of feral populations that result in habitat destruction or competition with native wildlife? The Department of Fish, Wildlife & Parks has a century of experience on these issues. The Department of Livestock has virtually no expertise on these issues.

Reason 2) Since 1992, there have been documented cases of 59 escaped game farm deer and elk in Montana. The Department of Fish, Wildlife & Parks has the sophistication, resources and training to address the issue of escaped game farm animals.

Reason 3) Tuberculosis is a constant threat. A compelling case can be made for the Department of Livestock should stay focused on what it does best--treat livestock diseases--rather than bewildered and diluted by what it has never done before. By granting game farm permit primacy to Livestock the department will be spread thin, lose its focus, and the threat of disease grows worse.

Reason 4) The Montana Environmental Policy Act (MEPA) requires a rigorous and demanding public involvement and public disclosure process. The Department of Livestock hasn't done an environmental impact statement in a decade. Not one. Should SB 215 pass as is, the game farm industry gets to be the guinea pig for Livestock's MEPA training. Game farm adversaries will have a field day turning the Livestock Department inside out with MEPA lawsuits. The quiet, unobtrusive Department of Livestock, through primacy for game farm regulation, places a gigantic bright red bullesye broadside on itself and will be powerless as every document, every discussion, every action and every decision will be subjected to massive and possibly unbearable public inspection.

The Department of Fish, Wildlife & Parks, on the other hand, has done hundreds of MEPA documents, has been in the public spotlight for a generation, and the public has a fair degree of comfort with its management of wildlife.

Reason 5) The Department of Fish, Wildlife & Parks has a field staff of 41 wildlife biologists and 84 game wardens. Game farmers think these biologists and wardens are a pain in the drain. But when a game farm animal escapes, or when wildlife get in a game farm, the wardens and biologists can respond quickly. The Department of Livestock has a small staff of vets and stock inspectors with no experience with wildlife.

A newspaper story from June 2 helps highlight this issue. Dr.

Siroky, State Veterinarian, says about the Elk Valley TB incident:

"There is little doubt the animal picked up the TB from this Elk Valley herd."

He's right, there is little doubt.

He also says: "The deer may have gotten in and back out of the game farm."

He's right, the deer could have.

He goes on to say: "With 3,400 acres, you can't keep a fence up all the time, what with washouts and everything else that can happen."

He's right, you can't keep a fence up all the time.

Finally, he says it's possible that an animal could be infected through the fence.

He's right, even if you could keep a fence up--which you can't--TB can be spread through nose-to-nose contact through the fence.

The point to this is simply that with this variety of threats, the more personnel in the field who can respond, the better protected game farm animals and wildlife will be from the threats of disease. And the more the State Vet can focus on disease, the better the disease protection for game farm animals and native wildlife.

Reason 6) Finally, the shared system of authority that exists now between the Department of Livestock and Department of Fish, Wildlife & Parks takes advantage of each department's vast yet specific expertise. The Department of Livestock knows that. That's why they planned to oppose this bill prior to the Board of Livestock overruling the department. The current system, onerous as it may seem to some, is the best system.

We all know it is not a perfect system. Some of the horror stories about the Department of Fish, Wildlife & Parks are probably based upon truth.

But a shift to primacy for the Department of Livestock is not the answer. Not for the two departments. Not for Montana wildlife. And certainly not for Montana game breeders.

Cattle rustling doesn't happen much, but when it does, it is a serious crime and livestock producers demand and deserve to have a livestock agency serve a lead role in bringing cattle rustlers to justice.

Wildlife rustling doesn't happen much, but when it does, it,

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DATE 2-1-95
SB 215

too, is a serious crime. Wildlife advocates and sportsmen demand and deserve to have a wildlife agency serve a lead role in bringing wildlife rustlers to justice.

No one likes to be regulated. Everyone would like to pick their own friendly, trusting, cooperative regulator. But the game farm industry is growing. Clearly, something is working right, and game breeder success is proof. Fish, Wildlife & Parks game farm primacy shelters your industry from people who not only fear game farm diseases, hybridization and theft of wildlife, but from people who want to shut your industry down completely.

Why gamble a growing multi-million dollar industry of some public concern on a crap shoot with an untried, untested Livestock Department who may not be up for a challenge it didn't want in the first place?

The best solution is to fix whatever problems exist between Livestock and Fish, Wildlife & Parks, and fix whatever problems exist between the game breeders and Fish, Wildlife & Parks. Montanans will not accept a proposal, and you as an industry should not accept a proposal, that fixes a current problem by creating something much, much worse.

Pat Graham, the director of the Department of Fish, Wildlife & Parks, will now present the amendments and address the central issues of permit primacy, disease, theft and hybridization.

Governor Racicot urges your approval of these amendments.

TSB2150.S

Bill No. SB215

February 1, 1995

Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks

before the Senate Agriculture, Livestock and Irrigation Committee

Montana has a rich wildlife legacy. Hunters, landowners, outfitters and citizen conservationists have all contributed to that legacy. It is as important today as it was 100 years ago. Montana has the second highest number of hunters per capita in the United States, and they feel strongly about wildlife.

The mission of the Montana Fish, Wildlife & Parks (FWP), established through statute is--through its employees and citizen commission, to provide for the stewardship of the fish, wildlife, parks and recreational resources of Montana, while contributing to the quality of life for present and future generations. Montanans expect--no they demand--that FWP carry out this mission.

That mission includes the joint and coordinated regulation of game farms with Department of Livestock (DoL). Since 1983, specific laws have been established to provide a regulatory framework for licensing and monitoring game farms. Those laws specifically address the need to:

1. Regulate species imported into the state;
2. Ensure that prospective new or expanded game farms do not:
 - create a significant impact to traditional wildlife habitat;
 - disrupt a major wildlife migration corridors;
 - pose an unacceptable threat of disease transmission;or;
 - pose an unacceptable threat of escape of captive animals or the establishment of feral populations.
3. Provide a basis to weed bad operators; and
4. Provide an opportunity for the public to review new or expanded game farms through the MEPA.

We are continuing to learn about game farms. Testing procedures which allowed TB to get into Montana, spread to six game farms and pass into Alberta have been improved. Are they perfect--not yet.

Fencing requirement have been established to keep game farm animals in and wildlife out. Are they perfect--not yet. In the last five years we have documented 39 incidents of animals leaving or entering game farms. We have documented 86 animals from five different species of deer and elk escaping. Poor fencing can explain part of the problems, but not all of them.

This past hunting season two animals, one elk and one deer, were

shot by hunters who were surprised to find game farm tags in the ears of these animals. The elk was shot 1.5 miles from the nearest game farm and had in its ear a USDA ear tag. Interestingly, the ear tag was one of a series issued by DoL to a veterinarian, and yet there is no record that the tag was placed in a game farm animal. Ear tags in the same numerical series were installed in elk on the nearby game farm. This elk was never reported lost by the owner. The elk ear and tag are being held for evidence, or I would have provided it today.

Importation restrictions can prevent many problems that have been caused by exotic species. However, we cannot restrict what we cannot test. Unfortunately, our best science and technology only allows us to reliably detect first generation hybrids between red deer and elk; half of the second generation hybrids cannot be detected.

Mr. Spoklie is correct when he says the industry has attempted to eliminate red deer hybrids from their inventory. I wish we could give them a 100 percent clean bill of health on that issue, but limits in the test make that impossible. And while I understand that the industry has been testing its herds for hybrids, the FWP has not received a record of the results of those tests. Last summer we were contacted by a veterinarian who had been testing the elk of a client who was preparing to sell them out-of-state. Much to his owner's surprise, the testing revealed about a half-dozen of them were red deer/elk hybrids.

Red deer/elk hybrids have escaped in to the wild. That is a fact. We have documented this in tests outside one game farm, and no one can prove that with all the incidents of escapes from game farms involving elk that none were hybrids. The handout provides additional information.

The Department has listened to charges leveled against us over the past two or three years by the industry. If necessary, I believe I can provide sufficient evident to show that much of it is exaggerated, or false.

What I would prefer to focus on is our efforts over the past two years to work with game breeders and to implement the changes made by the 1993 Legislature.

First, over the last three years, we have licensed 41 new or expanded game farms. In addition, we have issued 278 renewals of licenses. In that period, not once has an application for a game farm permit been denied. We have documented nearly 2200 staff hours spent on permitting activities during the last two years. Frankly, we have been so busy processing game farm licenses that it has taken time away from adopting administrative rules and fully implementing the legislation enacted in 1993.

Second, we have worked to implement the legislation enacted last session. HB 338 - which passed third reading with only 15 dissenting votes between the House and Senate combined - made major changes to the regulatory framework, and has been a challenge to implement. While we have not come as far as I would have liked, I would like to review some of our accomplishments:

1. We have developed and distributed a game farm desk reference that contains information on the permitting process. This was designed to aide license applicants in understanding the process as well as ensure consistency among our field staff;
2. We have hired a game farm coordinator in Helena to provide more consistency and coordinate our permitting responsibilities;
3. Working jointly with DoL, we have developed draft administrative rules. While the official rulemaking process has yet to begin, in the spirit of cooperation, we have submitted the rules for review and comment by the industry and others. A meeting was held last week to discuss this draft.

A third area of accomplishment is training. In order to ensure consistency in how we conduct environmental reviews, we have provided training to 150 of our employees on MEPA. Once the administrative rules are adopted, I would like to institute a similar training program for all of our field staff involved in game farm permitting.

Glenn Marx spoke to proposed amendments. I would like to briefly outline them for you.

First, the amendments maintain the integrity of the existing joint regulatory framework, leaving FWP with lead responsibility for permitting and restoring our ability to prosecute cases of theft.

Second, the amendments place sole responsibility for identification and marking with the DoL. They also remove a large portion of the transportation requirements in existing statute, and instead refer to similar authority that DoL already has for livestock.

Third, the amendments maintain the advisory council but reduce governmental members and increase membership by knowledgeable public. Members are appointed by the Governor.

Finally, the amendments offer a compromise on reporting requirements. They split the difference between annual reporting and the existing requirement of three reports per year and require two reports per year.

I know the members of the MGBA, who represent about two-thirds of the game farmers licensed in Montana, advocate for a well regulated

industry, and are working hard to present a positive image. Unfortunately, this is not the case for everyone in the industry. In the last three years, charges have been filed in 13 cases of violations, three of which were felonies. One game farmer continues to refuse to get a license, and has threatened to shoot any warden who steps on his property. The FBI was in our office a few weeks ago because three of our employees received death threats over a game farm related issue.

I believe the majority of game farmers want to have a clean, legal and respected operation. That is certainly the expectation by the public. Joint regulation can provide for more assurance that will be achieved and maintained. These amendments, along with a renewed commitment to put a consistent and predictable regulatory framework in place will move us in that direction.

It has been suggested that FWP and game farms mix like oil and water because our wildlife based mission would appear to conflict with the game farm industry. The public does not want regulatory agencies to mix with an industry like water and sugar, where one dissolves into the other and becomes unrecognizable. They want to know that regulatory agencies will carry out their duties in an objective and thorough manner and have the expertise to make decisions. Joint regulatory roles, utilizing the expertise of FWP and DoL provides the right mix of oil and water to prevent either the regulators or the industry to be absorbed by the other.

Amendments to Senate Bill No. 215
First Reading CopyRequested by Governor Racicot
For the Committee on Agriculture, Livestock and Irrigation

January 31, 1995

1. Page 1.
Following: Line 18
Insert: (1) "Department" means the department of fish, wildlife, and parks.
2. Page 1, line 26.
Following: "caribou,"
Insert: "black bear, mountain lion,"
3. Page 2, line 5.
Page 3, line 19.
Page 4, line 21
Page 5, line 12.
Following: "department"
Insert: "of livestock"
4. Page 3, lines 3 through 5.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection
5. Page 3, lines 26 through 29.
Strike: "The" on line 26 through "87-4-410" on line 29
6. Page 4, line 8.
Following: "sell,"
Insert: "lease,"
7. Page 4, line 11.
Following: "department"
Insert: of livestock as required under subsection (4) and"
8. Page 4.
Following: line 13.
Insert: "(4) The department of livestock is responsible for the control, tracking, and distribution of identification tags used for the marking of game farm animals. The department of livestock shall require that each game farm animal be marked with identification that:
 (a) is unique to the animal;
 (b) is nontransferable;
 (c) has an emblem owned and registered by the department of livestock embossed on each identification tag; and
 (d) allows for the identification of game farm animals from a distance."
Renumber: subsequent subsections

9. Page 4, line 21.

Following: the second "department"

Insert: "of livestock"

10. Page 4, line 22.

Following: "animals"

Insert: "except carnivores and omnivores. In the case of carnivores and omnivores, the game farm licensee shall contact the department to request an inspection by a department official"

11. Page 4, line 25 through page 5, line 2.

Following: "must" on line 25

Strike: "include" on line 25 through the first "(iv)" on page 5, line 2

Insert: "be conducted pursuant to 81-3-203(1) through (3), and must include"

12. Page 5, line 2 through line 11

Following: "of" on line 2

Strike: ";" on line 2 through "inspection" on line 11

Insert:

"(b) a copy of the certificate must be provided by the department of livestock to the department within 10 days of the inspection."

13. Page 5, line 13.

Page 6, line 11.

Strike: "fish, wildlife, and parks"

Insert: "livestock"

14. Page 5, line 19.

Following: "transfers,"

Strike: "and"

Insert: "leases,"

Following: "sales"

Insert: ", births, and deaths"

15. Page 5, line 22.

Following: "transferred"

Insert: ", leased,"

Following: "transfer"

Insert: ", lease,"

16. Page 5, line 23.

Following: "transfer"

Insert: ", lease,"

17. Page 5, line 24.

Following "transferred"

Strike: "or"

Insert: ", leased,"

Following: "sold"

Insert: ", born, or died"

18. Page 5, lines 25 and 27.
Following: "1"
Insert: ", and July 1"
19. Page 5, line 26.
Following: "department"
Insert: "of fish, wildlife, and parks"
20. Page 5, line 27.
Following: "animals"
Insert: "that were"
21. Page 5, line 28.
Following: "sold"
Strike: "or propagated"
Insert: "leased, transferred, escaped, recaptured, born, or died"
22. Page 6, line 2 through 3.
Strike: "and" on line 2 through "parks" on line 3
23. Page 6, line 18.
Following: "species."
Insert: "(1)"
Following: "department"
Insert: " of fish, wildlife, and parks,"
24. Page 6, line 19.
Following: "livestock"
Insert: "or the department of livestock"
25. Page 6, line 21.
Following: "wildlife"
Strike: "or livestock"
26. Page 6, line 22.
Following: "animals"
Strike: ", parasites, or disease"
27. Page 6.
Following: line 22.
Insert:
"(2) The department of livestock may restrict from importation for the purposes of game farming any species or subspecies and their hybrids with native species that are determined through scientific investigation to pose a threat to wildlife or livestock through parasites or disease. Importation permitted by the department of livestock must comply with the requirements of Title 81, chapter 2, part 7."

28. Page 6.

Following: Line 27

Insert: "(b) who has not been or whose principal manager has not been convicted of or who has not forfeited bond of more than \$100 or more for more than one violation of the fish and game laws or applicable regulations of any state or the United States within a 5 year period prior to application."

Renumber: subsequent subsections

29. Page 8, line 7.

Page 8, line 8.

Page 8, line 9.

Strike: "board"

Insert: "commission"

30. Page 8, line 11.

Strike: "board's"

Insert: "commission's"

31. Page 8.

Following: line 22.

Insert: "(d) two convictions or bond forfeitures of \$100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the preceding 5 years;"

Renumber subsequent subsections

32. Page 9, line 8.

Strike: "(1)(d)"

Insert: "(1)(e)"

33. Page 9, line 29.

Following: "of"

Strike: "seven"

Insert: "six"

Following: "appointed"

Insert: "by the Governor"

34. Page 9, line 30.

Following: "(a)"

Strike: the remainder of subsection (a) in its entirety

Insert: "One member of the board of livestock or the department of livestock;"

35. Page 10, lines 1 through 2.

Strike: subsection (b) in its entirety

Renumber subsequent subsections

36. Page 10, lines 3 and 4.

Following: "(c)"

Strike: the remainder of subsection (c) in its entirety

Insert: "one member of the fish, wildlife, and parks commission or the department of fish, wildlife, and parks;"

37. Page 10, lines 5 and 6.
Strike: ", " on line 5 through "." on line 6.
Insert: "and who has experience with wildlife; and
(d) three members with knowledge or expertise in game farm,
wildlife or agricultural issues."

38. Page 10, lines 17 through 22.
Strike: section (1) in its entirety
Renumber: subsequent section

39. Page 10, line 21
Following: "Title"
Strike: "81"
Insert: "87"

40. Page 10, line 22
Strike: "81"
Insert: "87"

Montana Department of Fish, Wildlife & Parks



SENATE AGRICULTURE

EXHIBIT NO. 6

DATE 2-1-95

BILL NO. SB 215

Elk-Red Deer Hybridization

Testing Procedures

Studies in New Zealand and Canada showed that four proteins in elk and red deer are different and can be used to differentiate the two sub-species. Two "primary" indicators are 100% different in elk and red deer, while two "secondary" indicators are not unique to either elk or red deer because there is about a 5% chance of a "pure" elk carrying the red deer protein and a 5% chance of a "pure" red deer carrying the elk protein. Blood samples are required to test for all four proteins, but tissue samples can be used to test for one primary protein (hemoglobin) and one secondary protein (superoxide dismutase, SOD).

Only first generation hybrids can reliably be detected by current testing methods. Half of the second generation hybrids will not be detected.

Potential Elk-Red Deer Hybrids in Montana

LEWISTOWN AREA: Blood samples were taken from 15 elk to test for potential hybridization in response to the escape of two game farm elk in the area in the Lewistown area in 1991. One of the elk tested positive as a red deer/elk hybrid based on hemoglobin characteristics. The animal was never relocated in the wild.

ELLISTON AREA: 10 animal tissue samples were submitted for elk/red deer hybrid testing as a result of a poaching investigation in 1993. One animal tested positive for red deer hybridization based on hemoglobin characteristics. Test results for two animals were indicative of red deer/elk hybridization, based on SOD results, but were not conclusive.

The department does not have direct information about the release of game farm elk in the Elliston area that could account for hybridization. In 1989, a drug/dart kit belonging to C. Ralls of Hamilton was found south of Elliston. No explanation has been provided for its loss.

Red Deer and Hybrids on Montana Game Farms

Mr. Spoklie, on behalf of the Montana Game Breeders Association, offered to help game breeders test for hybridization and to make arrangements to confine hybrids in eastern Montana until they could be disposed of in an effort to eliminate red deer and hybrids from Montana. In January, 1992 he requested that FWP certify Montana as a "hybrid-free state" upon completion of the testing. FWP notified Mr. Spoklie that we could not do this because the current tests do not identify all hybrids within Montana, nor those that could be imported at a later date. If no elk were imported into Montana, it might be possible to hybrid test all Montana game farm elk and progeny for a period of four to five years and determine the existence of any hybrids. It would also be necessary to document parental lines through DNA testing to make this determination. At this point a hybrid-free status may be possible.

The Montana Game Breeders Association has not provided the results of hybrid testing to Fish, Wildlife and Parks. Based on September game farm reports there are five red deer remaining in Montana: 2 at the Gerri Backes game farm near Lambert, and 3 at the Henry Stip game farm near Sydney. One neutered male red deer was killed on a game farm this fall by poachers.

SENATE AGRICULTURE

EXHIBIT NO. 7DATE 2-1-95BILL NO. SB 215**Game Farm Information, January 1995**History of Game Farm Licenses

	<u>New</u>	<u>Renewals</u>	<u>Revenue</u>	<u>Expenditures</u>
1995				\$ 94,485 (6 mo.)
1994	8	90	\$ 3,050	109,649
1993	14	102	3,990	95,194
1992	19	86	4,050	35,078 (6 mo.)
1991	17	71	3,475	
1990	14	90	3,650	
1989	10	55		
1988	13	46		
1987	10	61		
1986	7	38		
1985	9	80		
1983	approximately 35			

Game Farm Applications

	<u>Approved</u>	<u>EIS Required</u>	<u>Denied</u>	<u>Pending</u>
FY'95	7	1	0	7
FY'94	5	1	0	(1 deferred for 6 months)
FY'93	10	1	0	

FWP Environmental Assessment Costs

	<u>Est. Staff Hours</u>	<u>Est. Cost</u>
Christison, 1993	302	\$ 6,100
Guthrie, 1994	426	\$ 7,400
Wallace, 1993	1,188	\$26,800
Gold Creek, 1993	150	\$ 4,000
Lee, 1994	131	\$ 3,000

In addition to those listed above, another six EAs were completed in 1994 and approximately 10 in 1993. These were probably each under \$2,500 in cost for a total of about \$40,000 plus the \$47,300 listed above.

Personnel time on EAs typically includes wildlife biologists, wardens, administrative staff, attorneys, and support staff. Time is about equally split between wildlife and enforcement staff on the larger projects and biologists accounted for the majority of time on the smaller projects.

Game Farm Violations

In addition to the cases listed below, approximately eight other cases are under consideration. Violations range from record-keeping irregularities and fencing problems to operating a game farm without a license and theft of wild game animals.

1995:

- 1) Clinton Fitchett -- failure to file bill-of-sale, as required by statute, with the intent to deceive the department, and submitting false records. Case pending.

1994:

- 1) Steve Killorn -- records violations with the intent to deceive the department, and theft of wild game animals. Case pending.
- 2) Mike Barthelmess -- forfeited bond on two misdemeanors of illegally transporting elk through Wyoming.
- 3) Len Wallace -- cited by DoL for failure to report the movement of a dead elk from the game farm.
- 4) Len Wallace -- an employee of Mr. Wallace was cited and forfeited bond for illegally transporting elk through Wyoming.
- 5) Lloyd Tillett -- license revoked for fence problems and repeated fallow deer escapes.
- 6) Levi Britton -- guilty of customs violations for illegal importation of game farm animal parts.
- 7) LeRoy Arneson -- citation for failure to report escape of game farm animal. Forfeited bond.
- 8) Charles Lee -- guilty of operating a game farm without a license.
- 9) 2 verbal warnings for fence violations.
- 10) 3 verbal warnings for reporting violations.
- 11) Verbal warning for tagging violation.

1993:

- 1) Greg Stires -- NTA for failure to file game farm report. Forfeited bond.
- 2) Dan Weppler -- warning for minor fence problems.
- 3) Welch Brogan -- misdemeanor charges for records violations and felony charges for theft of wild game animals. Case on appeal to Montana Supreme Court by Mr. Brogan.
- 4) Chancy Ralls -- Plead guilty of failing to keep true and accurate records.
- 5) Steve Killorn -- found guilty on nine misdemeanor charges for illegal transport of deer, antelope and moose.

1992:

- 1) Greg Stires/Mike Miller -- misdemeanor charges for failure to maintain accurate records and to report sale of game farm animals. \$300 bond forfeited.
- 2) Greg Stires -- NTA for failure to file game farm report. Forfeited bond.
- 3) Greg Stires -- NTA for failure to mail duplicate of bill-of-sale to FWP. Forfeited bond.

- 4) Joe DeSarro -- CC for failure to report transfer of game farm animal within 10 days.
- 5) Dan Wepler -- warning for minor fence problems.
- 6) Paul Taylor -- found guilty of felony possession of big game animals and misdemeanor outfitting charges.
- 7) Calvin Greenup -- found guilty of operating a game farm without a license. Directed to re-license.
- 8) Larry King -- posted bond for operating a game farm without a license. Forfeited bond.

1991:

- 1) Joe DeSarro -- NTA for releasing Merriam turkeys. Forfeited bond.

1989:

- 1) Welch Brogan -- unlawful possession of 89 wild game animals and failure to maintain adequate fences. Fined \$1,500.

1987:

- 1) Welch Brogan -- failure to keep true and accurate records. Forfeited bond.

Ingress and Egress

	<u># incidents</u>	<u># animals escaped</u>	<u># ingress</u>
1995:	0 to date	0 to date	0 to date
1994:	12	21 (4 elk, 2 mule deer, 11 fallow deer, 3 Sika deer, 1 whitetail deer)	4 mule deer
1993:	9	14 (8 elk, 3 fallow deer, 3 Sika deer)	
1992:	11	24 (1 elk, 1 mule deer, 3 whitetail deer, 19 fallow deer)	elk, bighorn sheep, mule deer, antelope, whitetail deer
1991:	5	20 (elk)	
1990:	2	7 (5 elk, 2 Sika deer)	
1989:	5	20 (elk)	239 elk

John Malcolm, area manager of the National Bison Range, reported to FWP about the effectiveness of their 8-foot high fences. Mr.

Malcolm gave several examples of both ingress and egress of whitetail deer, bighorn sheep and elk. Elk have been seen on numerous occasions jumping over 8-foot interior fences. In the fall of 1991, about 30 elk escaped when some trees fell on the perimeter fence. Also in the fall of 1991, three wounded elk being pursued by hunters jumped the fence into the Bison Range enclosure and had to be removed. Coyotes sometimes dig holes under the fence and both whitetail deer and bighorn sheep have crawled in and out through these holes. A cow moose was discovered inside the perimeter fence in the spring of 1992, and her calf was outside the fence, indicating she was able to jump the existing fence.

Tuberculosis Quarantines by Department of Livestock

1994: Stires (Elk Valley), Hardin -- animals depopulated
1993: Corbett, Sidney -- animals depopulated
1992: Freidrich, Antelope -- animals depopulated
1991: Brogan, Gardiner -- 3-year annual testing done in 1995
Kessler, Philipsburg -- needs two more 180-day negative tests, then 3 annual tests
Thomas, Carter County -- completed testing, clean

Tuberculosis in Wildlife

MULE DEER: 1 mule deer culture positive and 2 with TB-compatible lesions out of 150 mule deer sampled around the Elk Valley Game Farm
COYOTES: 1 culture positive and 1 with TB-compatible lesions out of 16 sampled around the Elk Valley Game Farm

DoL Stock Inspections

More than 200 stock inspections were conducted between mid-July 1994 and mid-January 1995. This averages out to 33 inspections each month. Most inspections involve one, two or three game farm animals.

Montana Audubon Legislative Fund

P.O. Box 595 • Helena, MT 59624 • 443-3949

Senate Agriculture Committee

Testimony on SB 215

February 1, 1995

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I am here representing the 2,400 members of Montana Audubon. We are opposed to SB 215 in its current form for the following reasons:

1. On page 1, line 18: this eliminates most of the responsibilities of the Department of Fish, Wildlife & Parks (DFWP) to regulate and license game farms. We oppose this for the following reasons:

- We have been told that there are two "chiefs" regulating game farms and that is bad. We disagree. Certainly partnerships work. If the partnership between these two state agencies is not working, then the governor should intervene and correct the situation.
- We think a partnership is necessary in the case because of the expertise of these two agencies. The Livestock Dept. has the expertise to manage disease issues, transportation, and inspections. The DFWP has the expertise to handle licensing and enforcement. We understand that both agencies have responsibilities to handle identification - and that there are enough problems and disagreements between the agencies that something need to be worked out between them.
- We feel the DFWP has the expertise to handle licensing because many of the criteria for licenses deal with issues that affect wildlife. Most of these issues are found on page 7, subsection (3).
- Outside of the disease issue, we feel that the DFWP has the expertise to handle enforcement. Most of the enforcement issues deal with 1) animals escaping from a game farm and 2) wild animals captured by a game farm illegally. Certainly the DFWP has the expertise to deal with these important enforcement issues.

2. On page 1, line 26: "black bear" and "mountain lion" are eliminated from the definition of game farm animal. There are several people in the state that have black bears and mountain lions. Eliminating these animals from this definition would eliminate the regulation of these animals. This does not make sense. Both animals can be dangerous. It may be appropriate to have a separate section dealing

with game farm carnivores - but to eliminate them from being regulated does not make sense.

3. Page 5, lines 25 and 27: this changes the number of times that reports need to be submitted by game farm licensees. We feel that there is good reason to report the number and species of game farm animals, and therefore there should be reports required more than once per year. The following reasons are given for reporting:

January 1: gives the department baseline information after buying and selling are completed

April 1: this is just before calving and after winter die-off.

September 1: this is after calving and de-horning, and before the fall migration of wild animals that might be in the area.

These three reporting periods give the department the ability to piece together what the population of game farm animals is doing at critical times. If the reporting is too onerous, perhaps it could be consolidated into two reports per year. But, we feel that to cut back this reporting requirement to one time per year is not appropriate.

4. Page 6, Section 12: currently the DFWP has the ability to regulate which animals can and cannot be imported in the state. This does not make sense. Although there is a potential threat to livestock from the importation of certain species, there is far more risk to wildlife. Therefore, we feel strongly that the DFWP should retain this responsibility.

5. Page 6 lines 28 - 30 and page 8 lines 24 - 25 eliminate the "bad actor" provisions for issuing licenses and revoking licenses. Why? Doesn't it make sense to look at violations of fish and game laws in this process? If a person is known to have a disregard for fish and game laws, that information should be examined, and potentially, they should not be operating a game farm.

6. Page 9, Section 15: the game farm advisory council needs at least one person (preferably two) representing wildlife interests. Also, who appoints this board? We would request that the governor make this appointment.

SENATE AGRICULTURE

EXHIBIT NO. 9

DATE 2-1-95

BILL NO. SB 215

DATE: 2/1/95

FROM: Mike Vashro

SUBJECT: Senate Bill 215

TO: Senate Agriculture Committee:

Mr. Chairman and Committee Members

I'm here today to oppose SB 215. Approximately six months ago the Dept. of F,W,& P. created a Game Farm Coordinators position at which I was opposed to. I'm here to tell you the person who was hired for this job has put one immense amount of effort into bridging gaps between departments and between sportsmen and game ranchers. I can't speak on behalf of the departments involved whether this effort has been successful but I have personally observed the work the game farm coordinator and the state veterinarian have put into the the dept. of f.w.&p. draft administrative rules on game farms and my hats off to the both of them. Since the day the Dept. created this new position all parties have been put on an even playing field, no one is favored over the other and everyone has equal access to information. this is the way government should be run open and accessible. SB215 does not give this position or the new administrative rules a chance to work. We would be starting over at square one if authority was switched to Dept. of livestock. Know matter how you look at this issue there is always going to have to be a joint effort. One Dept. can not handle every aspect dealing with game farms. I believe the dept. of F,W,&P should have overriding authority because we are dealing with wildlife not livestock in game farming and our native wildlife stand to have the most to lose.

SB 215

SENATE AGRICULTURE

EXHIBIT NO. 10

DATE 2-1-95

BILL NO. SB215

NAME Joe Gutkoski

ADDRESS 304 N. 18th. Av. Bozeman MT

HOME PHONE 587-3242 WORK PHONE 587-3242

REPRESENTING Madison Gallatin Alliance

APPEARING ON WHICH PROPOSAL? SB 215

DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

The effects & impacts from game farming
is basically on wildlife. The Mt. Dept of Livestock
is not responsible for the protection of Wildlife.
& cannot administer the game farming business.
Mt. Dept. of Fish Wildlife & Parks. has a commitment
to protect wildlife and should retain the
administration of the game farming business.
The game farming business needs a firm hand in
its management & Dept. of F W & P is best suited to
administer the Game Farm program.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME JACK BRIDGWATER

ADDRESS 720 Gurnett Cir

HOME PHONE 266-5368 WORK PHONE _____

REPRESENTING Game Farmer

APPEARING ON WHICH PROPOSAL? SB 215

DO YOU: SUPPORT OPPOSE _____ AMEND _____

COMMENTS:

We do not have diseased animals - This is blown up by FWP & the media - then they went to all wildlife & hunting meetings & got them on the bandwagon & the stories got bigger & bigger - We do not have escapes our elk are too expensive ~~to~~ ^{for} that. Fences are inspected if we cost the FWP so much money why do they want us under their control & we can't operate under the threatening "to BAN ALL GAME FARMS" that is constantly before us - They keep referring to incidents that happened several years ago we are concerned about wildlife too - But we also use common sense to validity of these stories -

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME ~~Myra~~ Myra Bridgewater

ADDRESS 720 Curmatt CR. Townsend, MT

HOME PHONE 266 5368 WORK PHONE SAME

REPRESENTING Game Farming

APPEARING ON WHICH PROPOSAL? SB 215

DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

The have been raising elk for 4 years as we wanted to come back to our roots, where we were born & raised. We wanted to do something we enjoyed in our retirement years & also leave something to our Grandchildren that they could carry on. We consider our animals domestic & all farm animals are raised to be harvested in some form or another. We are not in this business to raise DISEASED or Crossbred as Media & other Agencies lead you to believe. We do not want, nor have them in our herds either. We have rules & regulations under Agencies now. Our reason for Bill 215 putting under DOL. At the price we pay for our animals we don't want escapes or diseases. We have a very well organized & effectively run organization now with an oversight committee. We don't want 2 bosses & 2 sets of rules & regulation. Being under DOL we will still have basically the same strict regulations we have now. We pay TAXES per head as Cattlemen do. We support the local feed to withdraw feed bill —

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME JACK SCHUBARTH

ADDRESS BOX 132 STAR RT

HOME PHONE 467-2910 WORK PHONE SAME

REPRESENTING SUN RIVER GAME PARK

APPEARING ON WHICH PROPOSAL? 215

DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

^{Graham}
DIRECTOR Pat ~~Graham~~ and the govenor have both
SENT ME LETTERS STATING THEY CONSIDER GAME
FARMS AS A LOSS OF HABITAT TO WILDLIFE

I HAVE 5 PEOPLE IN MY AREA THAT WISH
TO MAKE A GAME FARM BUT WITH THE INDUSTRY
IN SUCH A SHAKY WAY WILL NOT INVEST IN
THIS INDUSTRY AS LIKE ALL REASONING PEOPLE
SEE THE FISH + GAME AS WISHING TO PUT THIS
INDUSTRY OUT OF BUSINESS. I HAVE MADE
APPLICATION FOR EXPANSION OVER 60 DAYS AGO
AS ALWAYS THE DEPT OF FISH + GAME HAVE NOT
GIVEN ME WRITTEN APPROVAL AT THIS POINT. THEY
WERE TO OK MY APPLICATION WITHIN 30 DAYS.

WITNESS STATEMENT (OVER)

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

This is how Fish & Game work - we
would be in violation but Fish & Game
CAN and does abuse their power to us.
They don't work for us. only themselves

A. Jack Schaubert

NAME JACK AND Ellen Schubarth
ADDRESS Box 132 STAR Route VAUGHN, MT. 59487
HOME PHONE 467-2910 WORK PHONE 453-1821
REPRESENTING GAME FARMING
APPEARING ON WHICH PROPOSAL? SB 215
DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

ON Nov 15, 1995 we requested a FW&P warden to supply us with tags for 15 head of deer that we had sold. After 3 days of phone calls to all heads of the FW&P, ^{AND the Governor} we were told all wardens and agents were (too busy) during the hunting season to bother with game farm activities. Since having the deer properly tagged was a condition of our sale, our business came to a complete halt for over 3 weeks.

We have (never) had any trouble getting a livestock brand inspector on weekends or holidays. Please

WITNESS STATEMENT

put us under Livestock control - it's their PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

WITNESS. F11 Business - their only Business

DATE 2-1-95

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB 215

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
MERLE KROEGER	game farming	SB215	X	
DET L. CORBETT	" "	SB 215	X	
ART STYCH	" "	SB215	X	
BULLBLOOM MILES CITY	" "	SB215	X	
Franklin J. Ripley	RANCHER	SB215	X	
Elizabeth J. Ziegen	Game Farmer	SB215	X	
Melanie Hansey	game farming	SB215	X	
Scott Schubart	GAME FARMING	SB215	X	
Chester Mussiter	game farming		X	
Chad Mussiter	Game Farm		X	
Truk Kake	Game farms		X	
STEVE Wilson	KCF&W	SB215	X	X
Gary Hedges	GAME FARM	SB215	X	
Don Hedges	GAME FARM	SB215	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-1-95

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB215

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Jan Richard	MWF	215	✓	X
Bruce Barta	Montana Game Breeder Assoc.	215	✓	
Joe Gutkoski	Madison Gallatin Allia.	215	APP	X
Chris Melus	Montana Stockgrowers	215	✓	
Pat Graham	FWP	215		L
Doel Rosetta	self	215		✓
Lucie Rosetta	self	215		✓
KAROLIS LEE	SELF	215		✓
Lisli Ouel	self	215		L
Dean Rollo	self	215		✓
Jim McDermund	self	215		X
Mike Vasquez	LL	215		X
Bernie Grovorn	"	215	L	
Paul Grovorn	"	215	✓	

VISITOR REGISTER

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DATE 2-1-95

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB 215

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Tony Schooner	State Lands Council	215		✓
L.A. Thomas	Anacosta Sport.	215		✓
BILL HOLDORF	SKYLINE SPORTSMEN	SB 215		✓
Stuart Doggett	MT Veterinary Medical Assoc.	SB 215	✓	
Janet Ellis	MT Audubon	SB 215		✓
BOB BUGAI	PRICKLY PEAR CACTUS ASSN	SB 215		X
Doug Powell	Self	SB 215		✓
TOM SANDS	SELF	SB 215	✓	
Robert Stephens Jr.	Self	SB 215	✓	
Sub Lalli	Self	SB 215	✓	
Ann Dillie	Self	SB 215	✓	
DAVID BROWN (MBA)	Montana Bachelor Assn	SB 215		✓

VISITOR REGISTER

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DATE 2-1-95

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB 215

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Peggy Hedges	GAME FARMS	215	X	
AIMA Hedges	GAME FARMS	215	X	
Shauney Haveman	Elk Glenn Game Farm	215	X	
June Crowell	Elk Glenn Game Farm	215	X	
Justin Haveman	Elk Glenn	215	X	
Stacy Frasier	Self	215		X
Dave McClure	Mont Farm Bureau	215	X	
Janice Kerr	Self	215		X
Larry Townsend	Self	215		X
Uln Wallace	Self	215	X	
Barbee Wallace	Self	215	X	
Debbie Shortel	—	215	X	
Karen Barta	Self	215	X	
Dave Campbell	UNITED BOWHUNTERS OF MT	215		X

VISITOR REGISTER

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DATE 2-1-95

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB 215

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Please Print				
Ellen Schubarth	Game Farming	SB 215	X	
James Ralph Feeeler	SELF	SB 215	X	
ARTHUR SCHUBARTH	SELF	SB 215	X	
Gerri Backes	Game Farming	SB 215	X	
Dolores Mangul	Self	SB 215	X	
Les Graham	Self	SB 215	X	
Jerry Hain	Game Farming	SB 215	X	
Steve Wolcott	North American Elk Breeders	SB 215	X	
Dave Whittlesey	Colorado Elk & Game Ranches	SB 215	X	
Marty Boehm	Fin & Feathers Game Farm	SB 215	X	
LINDA BOEHM	Fin & Feathers GAME FARM	SB 215	X	
MARK MITCHELL	MONTANA FENCE	SB 215	X	
Bob Spoklie	Spoklie Farms	SB 215	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

~~HOUSE OF REPRESENTATIVES~~ **SENATE**
VISITORS REGISTER

AGRICULTURE SUB-COMMITTEE DATE Feb 1, 1995
BILL NO. 215 SPONSOR(S) TRIFET

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Ward Swanson	Self	X	
Deann Dillon Wolf Point mt	Self	X	
DAN WEPPLER RYEGATE	SELF	X	
MARY Dillon Wolf Point mt.			
Sharon Kragedal FROID	self	X	
Cornie Corbett Sidney	self	X	
Arleene Weppler	self	X	
Reine Goffine	self	X	
Trinda Hill	Self	X	
A. Vines Duffin	Self	X	
Will Dale Evans	Agriculture related	X	
Archie Hayden	Self	X	
Med Wilkerson	Self	X	

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

Senate Agriculture
~~HOUSE OF REPRESENTATIVES~~
~~VISITORS REGISTER~~

~~SUB-COMMITTEE~~

DATE 2-1-95

BILL NO. SB 215

SPONSOR(S) SB 215

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Sheri Watson Miles City	Self	X	
Mike Hier Lambert MT	Self	X	
Iain Plouffe Sacas MT	Self	X	
JASON PLOUFFE SACAS MT	SELF	X	
MYRA & JACK BRIDGEMAN	MGA A	X	
Richard Hier Lambert MT	Self	X	
JACK SCHUBARTH VAUGHN MT	Self	X	

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HR:1993

wp:vissbcom.man

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