

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION**

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

**Call to Order:** By **CHAIRMAN DOUG WAGNER**, on February 7, 1995, at 3:00 P.M.

#### **ROLL CALL**

**Members Present:**

Rep. Douglas T. Wagner, Chairman (R)  
Rep. William Rehbein, Jr., Vice Chairman (Majority) (R)  
Rep. Emily Swanson, Vice Chairman (Minority) (D)  
Rep. Charles R. Devaney (R)  
Rep. Jim Elliott (D)  
Rep. Daniel C. Fuchs (R)  
Rep. Marian W. Hanson (R)  
Rep. Hal Harper (D)  
Rep. Chase Hibbard (R)  
Rep. Dick Knox (R)  
Rep. Rod Marshall (R)  
Rep. Brad Molnar (R)  
Rep. Robert J. "Bob" Pavlovich (D)  
Rep. Bob Raney (D)  
Rep. Robert R. "Bob" Ream (D)  
Rep. Paul Sliter (R)  
Rep. Bill Tash (R)  
Rep. Jack Wells (R)

**Members Excused:** None.

**Members Absent:** None.

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

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

**Committee Business Summary:**

Hearing: SJR 5, HB 391, HB 339, HB 375  
Executive Action: SJR 5 DO PASS  
HB 391 TABLED  
HB 339 TABLED

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### HEARING ON SJR 5

#### Opening Statement by Sponsor:

**SEN. CHARLES SWYSGOOD**, Senate District 17, Dillon, stated that SJR 5 was a joint resolution urging Congress to designate Virginia City as a national park. Virginia City is the county seat of Madison County. In 1961, it was designated as a national historical landmark. Studies during the 1980's examined the area for future preservation of this resource. Virginia City was listed by the National Trust for Historic Preservation as one of eleven of the nation's most endangered historic areas. It was endangered because many of the fragile, historic buildings were in danger of collapse. Much of the preservation of the city as it existed was the result of the Bovey family. They purchased and restored some of the buildings in Virginia City. It has been increasingly difficult for them to maintain their property. In 1990, the Boveys announced their intent to sell their property. As a result, it has produced major concerns about preserving the historical landmark.

#### Proponents' Testimony:

**Pat Graham**, Director, Department of Fish, Wildlife and Parks (FWP), distributed written testimony in support of SJR 5. They strongly supported the preservation of Virginia City because of its historical significance. It is one of the few remaining remnants of the authentic American West and is internationally recognized. He urged passage of SJR 5. **EXHIBIT 1**

**Linda Reed**, Senior Economic Development Advisor, Governor's Office, expressed their support of the bill. It is important to remember and celebrate Montana's heritage. Virginia City is a tangible symbol of Montana's frontier past, which contributed to the spirit of self-reliance and cooperation. It is also a symbol for the future. Montana cannot forget the past if a predictable future is to be built. Encouraging the inclusion of Virginia City in the national parks system will preserve this important reminder of Montana's heritage.

**REP. KARL OHS**, House District 33, Harrison, represented the district that includes Virginia City. He believed it was important to send a strong message to the federal government delegation that this is important to Montana. He urged the committee to support SJR 5.

**Marcella Sherfy**, State Historic Preservation Officer, Montana Historical Society, supported the resolution. Many people in the Virginia City area also supported it. She handed in a letter from the National Trust for Historic Preservation in support of SJR 5. **EXHIBIT 2**

**REP. ROD MARSHALL, House District 28, Bozeman,** stated that in 1970 he started a business in Virginia City called the Candy Store and operated it for 17 years. He spoke about Virginia City's international reputation. Many people come from other countries to visit the landmark. He strongly supported SJR 5.

**REP. BILL TASH, House District 34, Dillon,** stated that about 30,000 people visit Virginia City each year. It would be beneficial to preserve this important historical landmark.

**John Noyes, President, Virginia City Preservation Alliance,** handed in written testimony. He owns a business in Virginia City and thousands of people browse there every summer from over 50 foreign countries and nearly every state in the United States. There was worldwide interest in preserving this replication of Montana history. In meetings with the National Park Service (NPS), there were no negative comments regarding NPS getting involved in the preservation of Virginia City. NPS was interested in about 25 historical buildings needing repair on Main Street. He urged support of the resolution. **EXHIBIT 3**

**Matthew Cohn, Administor of the Travel Promotion Division, Department of Commerce,** expressed strong support of SJR 5.

**Linda Hamilton, Mayor, Virginia City,** assured that the community supported intervention by the National Park Service in preservation efforts.

**John Ellingsen, resident of Virginia City,** handed in a witness statement. He stated the fragile resources in Virginia City were in danger of being sold or removed. Virginia City is a unique historical site and should be preserved. **EXHIBIT 4**

**Gloria Hermanson, Montana Cultural Advocacy,** urged passage of SJR 5.

**Marilee Tucker, resident of Virginia City,** strongly endorsed SJR 5 and encouraged the committee to pass the resolution.

**Tony Schoonen, citizen,** urged support for SJR 5.

**Kathy Macefield, President, Montana Preservation Alliance (MPA),** handed in written testimony. MPA supported keeping Virginia City as a historical landmark. It represents an educational tool to help understand western history. She asked the committee to support SJR 5. **EXHIBIT 5**

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

**REP. JIM ELLIOTT** commented that he had been a strong supporter of federal funding for the historical park of Bannack. He stated that the legislature during this session had drafted several bills rejecting federal mandates. However, SJR 5 encouraged the federal government to buy some Montana land. He asked if there was any attempt made to have Montana take care of the restoration. **SEN. SWYSGOOD** said the current fiscal condition of the state of Montana and the costs associated with restoration made it infeasible. Seeking federal funds was the best avenue to pursue on this project.

**REP. BILL REHBEIN** asked **SEN. SWYSGOOD** if a private company had been considered for the project. **SEN. SWYSGOOD** replied that many avenues had been explored, including searching for a private company to handle the restoration. However, the conclusion was reached to pursue an agreement with the National Park Service.

**REP. DICK KNOX** asked **SEN. SWYSGOOD** about the estimated cost of the project. **SEN. SWYSGOOD** stated that it would cost about \$5 million. **REP. KNOX** asked if that money would be used to repair the buildings on Main Street. **SEN. SWYSGOOD** said yes. **REP. KNOX** understood that the National Park Service would only have jurisdiction over 25 structures and artifacts. **SEN. SWYSGOOD** said he was correct. It was a unique situation called a "Partnership/Management Agreement." This type of agreement was being implemented across the country regarding certain parks.

**REP. JACK WELLS** asked **SEN. SWYSGOOD** if there would be a fee to get into the park as was the case with other federal parks. **SEN. SWYSGOOD** said many of the details needed to be worked out, including the exact number of acres, concerns regarding other activities, and privately owned businesses in the area. The main concern was preserving the buildings and artifacts currently owned by the Bovey family. **REP. WELLS** asked, in order to preserve and maintain their purchases, would the federal government charge a fee for visitor access. **SEN. SWYSGOOD** assumed that the landmark would be self-sustaining. Money would be generated from the park's operations and would support the landmark's maintenance and preservation.

**REP. ROD MARSHALL** stated that most of the buildings needing repair could potentially produce income and also contain artifacts. Once the buildings were repaired, the additional income would offset some the expenses. **SEN. SWYSGOOD** agreed. **REP. MARSHALL** stated that similar actions were taken in Nevada City. Some of the specialty buildings charge a fee in order to provide maintenance for that building. **SEN. SWYSGOOD** said that was correct.

**REP. PAUL SLITER** asked **Pat Graham, Director, FWP**, for comments about moving a vocational technical program to Dillon and using it to help maintain Virginia City. He also asked if it would

then be cost-effective to maintain Virginia City in the state park system. **Mr. Graham** could not offer comments without discussing it with staff people. There were very few parks that were self-supporting and it would require great effort on behalf of the state to identify funding. **REP. SLITER** said the idea had merit but doubted there would be much support for it. **Mr. Graham** stated that the U.S. Forest Service could train people to specialize in historic restoration. They could use vocational schools to train the people. In terms of the day-to-day operations, he was not sure how it would work.

**REP. REHBEIN** asked **Linda Hamilton, Mayor, Virginia City**, if the Bovey family currently owned the buildings in need of restoration. **Ms. Hamilton** said yes. **REP. REHBEIN** asked if a sale of the Bovey property to the National Park Service would occur. **Ms. Hamilton** replied that a special meeting with the National Park Service was recently held. As a result, at least four alternatives were discussed. The option most favored by the community was acquisition of the old buildings by the National Park Service while maintaining local management. **REP. REHBEIN** how finances were handled currently. **Ms. Hamilton** replied to the question, but she did not speak loud enough to either record in the notes or on the tape.

**CHAIRMAN DOUG WAGNER** asked **SEN. SWYSGOOD** about the use of the \$5 million. He wanted to know if it included the purchase of existing buildings or the entire project, including restoration efforts. **SEN. SWYSGOOD** referred the question to **Ms. Hamilton**. **Ms. Hamilton** said the \$5 million was related to acquisition. It would take an additional \$5 million to \$6 million for restoration. No appraisals have been completed. Therefore, the dollar amounts were estimates.

**CHAIRMAN WAGNER** asked if there was a record of the amount originally paid by the Bovey family. **Ms. Hamilton** was unaware if there was a written document recording that transaction. **CHAIRMAN WAGNER** said he understood that the 25 buildings would be the only portion designated as a federal park. He asked about future problems with residents and the National Park Service acquiring the property. **Ms. Hamilton** said those issues had been discussed during the past year with the National Park Service. She said a park in Alaska had a similar plan and worked fine. The advantage of having the area as a national park was the availability of federal funding. Private ownership of businesses would continue as it currently existed.

**Closing by Sponsor:**

**SEN. SWYSGOOD** was unsure about **REP. SLITER's** suggestion. College students benefit from the immense amount of resources in the area. **SJR 5** requested that the state of Montana urge Congress to approve national park status for Virginia City. Because of its uniqueness, worldwide reputation, and important part it plays in Montana's history, Virginia City merits the efforts of

preservation. While there were many details to be resolved, both the park and federal agency were willing to cooperate. He stated that **REP. KARL OHS** would carry the bill in the House.

#### HEARING ON HB 391

##### Opening Statement by Sponsor:

**REP. ROGER DEBRUYCKER**, House District 89, Floweree, stated that HB 391 required that a shooting preserve be located 40 miles or more from another shooting preserve. It would not affect existing shooting preserves.

##### Proponents' Testimony:

**Loran Perry, citizen**, handed in written testimony in support of HB 391. He had spoken with FWP and both agreed that it would help enforcement. He urged passage of HB 391. **EXHIBIT 6**

**Pat Graham, Director, Department of Fish, Wildlife and Parks**, distributed written testimony supporting the bill. The mileage restriction was currently the primary criteria used to approve or deny shooting preserve applications. The number of shooting preserves had doubled in recent years. The rapid expansion created concern about protecting wildlife resources. Instituting the necessary changes were beyond the scope of HB 391. FWP planned to present a comprehensive plan to the 1997 legislature. **EXHIBIT 7**

##### Opponents' Testimony:

None.

##### Questions From Committee Members and Responses:

**REP. BILL TASH** asked **REP. DEBRUYCKER** if HB 391 encroached on private property rights. **REP. DEBRUYCKER** said that possibility existed. However, the current 10-mile restriction could also have that same problem. When a person established a shooting preserve, it involved considerable investment. If shooting preserves were too close together, it took away public hunting opportunities. He stated that it probably would infringe on private property rights.

**REP. ELLIOTT** asked **Mr. Perry** if he owned a shooting preserve. **Mr. Perry** said yes. **REP. ELLIOTT** asked about the distance between his shooting preserve and the next shooting preserve. **Mr. Perry** said it was about 35 to 40 miles.

**REP. MARSHALL** asked **Mr. Graham** about the number of preserves that would be possible in the state if there were 40 miles between each one. **Mr. Graham** said they had not calculated that. He referred the question to **Mr. Perry**. **Mr. Perry** said there could

be approximately 90 shooting preserves. **REP. MARSHALL** asked what would happen when 90 shooting preserves were reached and how it would affect the sale of a shooting preserve license. It may become similar to the liquor license situation. **Mr. Perry** had not thought about that. Part of the reason for the bill was that a person wanted him to relinquish his license so that another person from California could purchase adjacent land and begin their own shooting preserve.

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**REP. MARSHALL** asked about the results of not reaching the maximum number of permits. **Mr. Perry** said he figured that not that many were really needed. **REP. MARSHALL** asked the reason a 40-mile restriction was chosen and why FWP could not be allowed to determine the location of the licenses. **Mr. Perry** said that he felt that preserves were too close. Four years ago he attempted to get the 10-mile limit increased and it did not work out. He had met three times with FWP and chose 40 miles to ensure that each preserve had adequate room.

**REP. REHBEIN** asked about the date when the 10-mile restriction was made effective. **Mr. Sternberg** answered that the law was made in 1965. **REP. REHBEIN** asked **Mr. Perry** when he built his game preserve. **Mr. Perry** said it was established six years ago. **REP. REHBEIN** asked if he fully understood the law when he built the game preserve. **Mr. Perry** said yes.

**REP. WELLS** stated that **Mr. Perry** chose to increase the restriction to 40 miles and FWP believed that this would aid in preserving public hunting between preserves. He asked **REP. DEBRUYCKER** if any discussion occurred regarding 20 to 25 miles rather than 40 miles and if he would consider a compromise. **REP. DEBRUYCKER** said no other numbers were discussed. A 40-mile restriction was chosen because **Mr. Perry** felt that preserves should be that distance from each other. **REP. WELLS** asked if there would be room for discussion or negotiation on the proposed 40-mile restriction. **REP. DEBRUYCKER** said there was always room for discussion but preferred maintaining the proposed 40-mile limit.

**REP. BOB REAM** pointed out that a 10-mile radius around a shooting preserve was 314 square miles. He asked **Mr. Graham** if there was evidence around the state of shooting preserves acquiring wild game birds and the effect on wild game bird populations. **Mr. Graham** stated that shooting preserve regulations were minimal. As a result, there was not much information available. In order to better evaluate and monitor preserves, there must be improvements in recordkeeping and season regulations. FWP has been studying the methods used by other states in handling shooting preserves.

**REP. REAM** asked about the fee structure for shooting preserves. **Mr. Graham** said he was not familiar with the fee structure. In

Section 87-4-503, "fees for shooting preserve licenses or permits shall be \$50 per year for the first 100 acres plus \$20 per year for each additional 160 acres or parts thereof." **REP. REAM** said that one of **Mr. Graham's** concerns was "locking up" land between preserves from public hunting and habitat.

**REP. REAM** asked **Mr. Graham** if there was a program to address that issue within the vicinity of existing shooting preserves and if there was cooperation from preserve operators. **Mr. Graham** said there were several concerns. The only criteria for issuing a permit was the distance restriction. If a person wanted to establish a preserve in the middle of a habitat, FWP could not deny the request. Obtaining a shooting preserve permit gave landowners special privileges allowing a longer a hunting season, releasing birds, and harvesting wild birds that wander into the preserve.

**REP. CHASE HIBBARD** stated that in **Mr. Graham's** testimony, he said that FWP planned to offer a more comprehensive plan to the 1997 legislature. Changing the 10-mile limit between preserves has been reviewed a few times by the legislature. He asked **Mr. Graham** to clarify his intent about the submission of a more comprehensive plan. **Mr. Graham** said more specific siting criteria would be established in the plan, and it would be patterned after the state of Oregon's current program. If a person shot a wild bird in the state of Oregon, he would have to clip, mark, and pay for the wild bird. FWP did not have a chance to meet with different interest groups prior to the session and discuss various options. He did not want to create an operation that required expensive enforcement.

**CHAIRMAN WAGNER** asked **Mr. Graham** if the reason for the 10-mile restriction was safety or if it was an arbitrary number. **Mr. Graham** said he did not know all of the reasons. He presumed that the 10-mile restriction was established to avoid a concentration of preserves in one area and maintain public hunting opportunities. It was difficult to estimate the biological impacts on any particular operation. Currently, there were no safeguards built into the program regarding release of birds and hunting season criteria.

**CHAIRMAN WAGNER** said that the bill would not change the size of the preserve but only the distance between preserves. **Mr. Graham** said he was correct. **CHAIRMAN WAGNER** asked if a person established a shooting preserve 40 miles away, what would be the limiting factors on the size of that range. **Mr. Graham** said the current regulations in statute would be the only limitations. **CHAIRMAN WAGNER** asked about the size of a preserve. **Mr. Graham** said 1,280 contiguous acres was the maximum size of a preserve.

Closing by Sponsor:

**REP. DEBRUYCKER** said that there was a slight infringement on private property rights. It may turn out to be similar to the



liquor license; when all the permits were issued, there would be no more. In examining the expense and work involved in establishing a preserve, not too many people desire to build one. If the preserves were too close together, public hunting was restricted. He stated that it would not "hurt to leave a little land in between the preserves" for the public to hunt. He urged the committee to support HB 391.

### HEARING ON HB 339

#### Opening Statement by Sponsor:

**REP. BRAD MOLNAR**, House District 22, Laurel, stated that HB 339 was an act that revised the system of issuing special permits issued by a drawing. Nonresidents could not receive more than 10% of the total special permits and the permits would be issued on a district basis rather than on a regional basis. HB 339 also provided that a person who received a special elk permit for designated areas could not apply for a similar permit for five years. In most regions in the state, nonresidents do not obtain more than 10% of the permits. However, in Region 7 for antelope, approximately 30% of the permits were obtained by nonresidents. The reason for this was because of the large number of licenses offered, and residents did not purchase all of them.

**REP. MOLNAR** said that current law stated that the number of big game licenses or permits issued to nonresidents in the region, district, or area may not exceed 10% of the total issued. FWP dealt with this situation by offering the permits "over-the-counter" rather than through drawing. HB 339 provided that if a license began as a special drawing permit, that license would not be able to be changed. Special permits authorized by FWP must be issued on a district basis rather than a regional basis. Using districts rather than regions would allow better wild game management and enforcement of laws.

**REP. MOLNAR** stated that new language regarding special elk permits was added in Section 3, subsection (4). It said, "The department shall annually determine, based on the previous year's license applications, in which hunting districts the odds of an applicant drawing a special elk permit are greater than 15 to 1. Those hunting districts must be designated as golden areas on the department's hunting map. A person who received a special elk permit for a hunting district designated as a golden area under the provisions of this subsection may not apply for another elk permit for any golden area for the next five years."

#### Proponents' Testimony:

None.

**Opponents' Testimony:**

**Jean Johnson, Executive Director, Montana Outfitters and Guides Association**, distributed written testimony. She did not want to micro-manage hunting areas. The department had the tools to effectively regulate the regions and she believed that decisions about this issue should be made by FWP. The "golden areas" were a backdoor approach eliminating landowners who used the landowner preference program. She also handed in a letter from the **Powder River Commercial Club from Broadus** that contained about two dozen signatures of people who were opposed to this legislation.

**EXHIBITS 8 AND 9**

**Chris Mehus, Montana Stockgrowers Association**, expressed their opposition to the bill. They did not want to see many permits go unused. HB 339 would be a detriment to many groups. The final provision in the bill limited the benefits of landowners that participated in the landowner preference program. HB 339 may diminish the spirit of compromise between landowners, sportspeople, and outfitters as well as the willingness to cooperate.

**Mary Ellen Schnur, Secretary-Treasurer, Foundation for North American Wild Sheep, Montana Chapter**, handed in written testimony. They believe that the special permit process should remain as it was currently. To change the process as HB 339 proposed would restrict FWP in their ability to effectively manage wildlife. Nonresidents have an established right to hunt in Montana. The organization did not perceive any reason to further decrease the opportunity for nonresidents to apply for moose, goat, or sheep licenses. **EXHIBIT 10**

**Pat Graham, Director, Department of Fish, Wildlife and Parks (FWP)**, distributed written testimony opposing HB 339. Current statute provides a 10% nonresident limitation for permits and licenses that were issued through the drawing process. FWP had adopted rules consistent with that law providing Montana hunters with preferential treatment in obtaining the special licenses and permits. Antelope licenses in eastern Montana have exceeded the resident demand during 24 of the past 25 years. It was only after all resident applications were filled that the 10% nonresident limitation was exceeded. Failure to sell all the antelope permits could cause game damage problems to landowners. Regional quotas were used to set the 10% limitation in the four areas of moose, sheep, goats, and region seven antelope. FWP believed that implementing a mandatory five year waiting period for permit holders in golden areas would not significantly increase the odds of successfully drawing a permit. He referred to the tables attached to the testimony. FWP believed the established rules were fair and responsive to the current legislation that existed. Further regulation would increase costs to the department. **EXHIBITS 11 AND 11A**

**Harold Billings, citizen,** spoke in opposition to HB 339. He expected that problems regarding the issues in HB 339 would arise. Montana's population has grown a lot over the past 20 years along with the tourism industry. Restricting permits and licenses to Montana residents would cause problems. He urged the committee to reject HB 339.

**Questions From Committee Members and Responses:**

**REP. DAN FUCHS** asked **Mr. Graham** for comments regarding the proposed "golden area." He "sort of" favored the idea. **Mr. Graham** referred to the tables that were attached to his testimony, which provided changes to the success rate in obtaining a permit or license. Establishing "golden areas" would not significantly change the success rates even if there were new people applying for the permits and licenses. The cost of administering a system such as the one proposed in HB 339 was very large. It required setting up computerized drawing systems and keeping records of people who were successful in filling their tags.

**REP. FUCHS** asked if he thought there would be enough benefit to make this type of change. **Mr. Graham** said no; it did not appear to have enough benefits. The reason FWP submitted the tables regarding applications for permits and success rates was to let committee members determine whether or not it would be beneficial. **REP. FUCHS** said there was currently a preference system for moose, sheep, and goats. He asked **Mr. Graham** to explain the reason it would not be beneficial to add elk to that list. **Mr. Graham** said the seven year wait on moose, sheep, and goat permits did not substantially increase the odds of drawing a tag. These permits were difficult to obtain through the drawing system.

**REP. WELLS** said managing by district rather than region should eliminate the problem of large concentrations of antelope. Large concentrations of hunters were bothering landowners. He asked **Mr. Graham** about the issue.

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**Mr. Graham** said the bill as it was drafted would not significantly alter the current process. Dividing particular regions into two districts may still result in problems. The issue has been brought before the commission on several occasions. However, no solutions were reached to handle some of the problems. The reason for the current setup was because the majority of land in southeast Montana was privately owned. Ultimately, the landowner decided who hunted on their property. If the wildlife population was low, landowners probably would not allow hunting. Landowners could also close their land to public hunting, which would be a problem if permits and license quotas had already been established. In larger regions, landowners have

problems with more hunters seeking access to their land. The Block Management Program tried to accommodate landowners through various procedures. Currently, FWP was experimenting with a "reservations system" so hunters could go to FWP for information regarding arrangements with landowners.

REP. TASH asked REP. MOLNAR if he hunted in Region 7 for antelope. REP. MOLNAR said no. He hunted in Region 5. REP. TASH asked if that area was mostly public or private land. REP. MOLNAR said it was all privately owned land. REP. TASH said in REP. MOLNAR's opening statement he stated that he had gone hunting in certain areas and did not need to ask permission. He asked if this was a violation of game laws. REP. MOLNAR said he always called to let the particular landowner know he would be hunting on his land. He clarified that he never "wondered" if he had a place to hunt.

REP. WELLS asked REP. MOLNAR if landowners might grant permission to nonresident hunters and not grant access to resident hunters. REP. MOLNAR said that did happen and for a variety of reasons. Nonresident hunters may appreciate the privilege more and take better care not to damage the property while they were hunting. However, most landowners do not specify a preference.

CHAIRMAN WAGNER asked REP. MOLNAR about the locations of the "golden areas." REP. MOLNAR explained that he had proposed amendments that would change the word "area" to "permit." It was not his intent to designate particular areas. CHAIRMAN WAGNER said an "area" would not be designated until it reached the 15 to 1 ratio. REP. MOLNAR said he was correct.

Closing by Sponsor:

REP. MOLNAR said in some discussions it was pointed out that if the sheep tags were reduced there could be some lawsuits. Currently, there were several sheep areas in the state that were classified as "unlimited." Some states have strict regulations regarding the animals, permits, and seasons that nonresidents were allowed to participate in. Region 700 had districts in the past for hunting and there were tags that went unpurchased. As a result, residents could purchase the surplus tags. He did not believe that there would be any unused tags. It was not his intent to alter the landowner preference program. He was surprised that the department favored the current process. Statistically, HB 339 would not affect nonresidents. He did not consider sheep when drafting the bill. His intent was to deal with Region 700 and antelope hunting. He was somewhat offended with the FWP's comment about dividing Region 700 into two districts and not observing any change. He believed the only reason they would do that would be to get around the law. REP. MOLNAR said the Fish and Game Commission was not trying to manage the wildlife or appease landowners but was instead "answering political questions" and making money. The process was certainly not being done for landowners or wildlife in the regions. He

also believed that there would be an impact on the success rates of obtaining a elk tag.

*[Committee recessed for 10 minutes and the tape was turned off.]*

#### HEARING ON HB 375

##### Opening Statement by Sponsor:

**REP. HAL HARPER, House District 52, Helena,** stated that recently FWP disclosed that approximately 90% of the rainbow trout in the upper Madison River has vanished. The population of rainbow trout is about 10% of their prior numbers. Recently, whirling disease was also found in the Ruby River. A prime suspect for the disease spread was illegal fish introductions. Whirling disease originally came from Europe. It is a parasite disease that attached itself to the cartilage of fish and is extremely devastating. The Madison River was the first body of water in Montana discovered with the disease. HB 375 prohibits the possession or transportation of certain live fish away from the body of water from which they were caught. Currently it is illegal to introduce fish into a different body of water, but it is not illegal to transport live fish. In order to incarcerate someone illegally placing fish into a body of water, the person had to be caught in the act, and this rarely occurs. Because of the rapid spread of whirling disease, the Department of FWP was considering closing a portion of the Madison River for a certain part of the year. The Madison River provides about \$30 million of economic activity for the state. Now that the disease has also been discovered in the Ruby River, he believed there would be massive negative economic and recreational impacts. Whirling disease parasites deposit spores which could wash downstream and infect many other bodies of water. Even without the aspects and threats of whirling disease, **REP. HARPER** said HB 375 represented good public policy. There have been many cases of illegal fish transplants in a number of the lakes around Montana. Governor Racicot expressed a sincere desire to avoid the economic and environmental disasters and stop the spread of whirling disease. HB 375 would provide the tools to accomplish those objectives.

##### Proponents' Testimony:

**Pat Graham, Director, Department of Fish, Wildlife and Parks,** distributed written testimony in support of HB 375. The illegal movement of live fish from one body of water to another poses a serious threat to the well-being of Montana's fishery resources and the state's recreational fishing opportunities. The impacts were often irreversible and could affect the productivity of the state's bodies of water. New fish species introduced into a body of water often multiply quickly with serious negative impacts on existing fish populations due to predation and/or competition for food sources. Another concern with the transport of live fish is the potential for transfer of disease. FWP believed the

legislation is necessary to improve the effectiveness of existing laws that were intended to prevent illegal fish introductions.

**Mr. Graham** emphasized that HB 375 is not an "anti-live well" bill but rather an attempt to reduce the threat of illegal fish introductions. FWP planned to continue aggressive educational programs to educate the public about the damages of transplanting fish. He urged the committee to support HB 375. **EXHIBIT 12**

**Bruce Farling, Montana Council of Trout Unlimited**, spoke in favor of the bill on behalf of all their members. He handed in written testimony and emphasized that HB 375 would not infringe on private property rights or cost the state additional money. It also would not institute any new state enforcement divisions but would allow citizens to report violations of the law. **EXHIBIT 13**

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**Earl Dorsey, Missouri River Trout Unlimited**, expressed their support for HB 375.

**Stan Frasier, Montana Wildlife Federation**, expressed support on behalf of the organization.

**Bill Holdorf, Skyline Sportsmen Association**, was involved in the program that made the determination of whether or not walleyes should legally be introduced at the Canyon Ferry Reservoir. By placing that fish in the lake, it seemed to affect other fish populations. Perch populations have decreased. Prior to the walleye introduction, no reports of problems with perch were recorded. Radio transmitters have been placed inside of some walleyes to determine the location of spawning beds. An attempt was being made to reduce walleye numbers. He wanted to see the transportation of live fish stopped.

**Robin Cunningham, Fishing Outfitters Association of Montana**, handed in written testimony. He expressed their concern over moving live fish, thereby spreading diseases. It could have devastating effects on several industries in Montana. He urged the committee to pass the legislation. **EXHIBIT 14**

**Art Whitney, Montana Chapter of the American Fisheries Society (AFS)**, presented written testimony expressing support for HB 375. AFS was an international organization of fisheries and aquatic professionals promoting wise use and management of fisheries and water habitats. HB 375 would provide an additional tool in the fight against what was known as "bucket biology." He requested the committee to support the bill. **EXHIBIT 15**

**Stan Bradshaw, fisherman**, urged support for the bill.

**Tony Schoonen, Jr., Blue Ribbon Guide Service**, expressed their concern over whirling disease through the illegal transplanting of fish. Their business depends on healthy fish populations to

ensure economic viability. He has enjoyed Montana trout streams for many years. Montana's precious fish resource should not be compromised. He encouraged the committee to support HB 375.

**Paul Roos, owner of outfitting business**, supported HB 375. However, he hesitated reducing the conceived right of people to handle fish in a lawful manner. On the other hand, the result of transplanting fish has taken away other people's rights. He expressed concern over the consequences of moving live fish.

**Tom Bugni, fishing guide**, had fished and hunted in Montana all his life. He spoke of illegal introductions. Fisheries in certain parts of the state were in jeopardy. In supporting the bill, the fishing industry would be protected.

**Tony Schoonen, Anaconda Sportsmen's Association**, said that special interest groups killed the bill during the last session. He did not understand the reason those groups would desire to threaten Montana's fishing economy or recreational areas.

#### Opponents' Testimony:

**Riley Johnson, Walleyes Unlimited**, voiced their opposition to HB 375 and offered written testimony. HB 375 is known as the "live well" bill because it is specifically aimed at the thousands of fishermen who currently utilize aerated live wells to legally transport game fish from the lake to their home to ensure fresher preparation of the fish. The organization wanted to curb the illegal transport of fish. However, no evidence had been presented that live wells were the cause of the spread of whirling disease. Whirling disease is currently thought to be a hatchery-bound disease. He believes that the excuse of spreading the disease was used in presenting this legislation to halt even the legal use of live wells. He asked the committee to reject HB 375. **EXHIBIT 16**

**John Lamb, Board of Directors of Walleyes Unlimited of Montana**, asked on the behalf of all of their members, that the bill be killed. HB 375 would make every fisherman that used a live well in a lawful and responsible manner guilty of a crime that is not committed. It would not stop the illegal introduction of fish or stop whirling disease. The real problem is illegal transplanting of fish and not the use of live wells. Illegal fish introductions, regulations for fish imported from out-of-state hatcheries, and inadequate enforcement were issues not addressed in the bill. HB 375 was a personal attack on every fisherman in the state who uses a live well. He stated that he is not a criminal just because he used a live well to transport the fish to his home so that he could properly clean and prepare them. It was easy for trout fishermen to support the ban on use of live wells when they do not use them. **Mr. Lamb** stated that the reason that illegal transplanting has become a large issue was because FWP "was almost invisible" on this issue. Walleyes Unlimited has spent thousands of dollars trying to stop illegal fish

introductions. They were distressed at being blamed by FWP for the actions of a small group of criminals. Not only does Montana contain blue ribbon trout fishing, it also contains a blue ribbon, world class warm water fishery. A ban on live wells would negatively impact the tourism industry.

**Mr. Lamb** testified during the last session regarding fish species and the problem of a mucous being released through the skin of walleye after they were dead. It affects their taste after they are cooked. FWP had promised to fix the problem. He handed around a walleye in a ziploc bag that was filleted according to FWP regulations. Testimony of **Dale Gilbert**, the fisherman who caught the walleye, was attached to the fish. He asked each committee member to examine the fillet. The mucous that was released had tainted the fish flesh. Two years ago, Walleyes Unlimited recommended that a 1-inch patch of skin be required to remain on walleyes. This was an attempt to eliminate the skin mucous problem. Because law enforcement personnel from FWP could not discern the difference between a walleye and a perch, walleye fishermen were forced to accept the regulation as it currently existed. It would be prudent for FWP to train its law enforcement personnel to distinguish the difference between a walleye and a perch so that this regulation could be changed. Another part of the problem was lack of facilities for sanitary disposal of fish remains. In an earlier meeting over HB 375 with FWP and other interested parties, he understood that a compromise had been reached. Eastern Montana was to be excused from the ban on live wells. He stated that, "Walleye fishermen are not automatically criminals because they used live wells. Walleye fishermen were not trying to promote illegal introductions.

**EXHIBIT 17**

**Don Groven, President, Walleyes Unlimited**, handed in written testimony and copies of articles from their magazine, Fish Tales. They felt that education was the key to stop illegal introductions. **EXHIBIT 18 AND 18A**

**Fred Easy, citizen**, presented testimony opposing HB 375. This bill would unnecessarily penalize boat owners and fishermen for the crimes of a few people. The majority of people take fish home in live wells to clean and eat them and properly dispose of the remains. He strongly urged the committee to oppose the bill.

**EXHIBIT 19**

*{Tape: 3; Side: A; Approx. Counter: 000; Comments: Lost part of Mr. Easy's testimony.}*

**Rollie Armacost, President, Walleyes Unlimited Great Falls**, said there are many problems with the bill. As soon as the boat left the water, people would be criminals. It meant that fishermen had to clean the fish before they left the water. He urged the committee to kill HB 375.



**Jim Anderson, Regional Director, Walleyes Unlimited**, said there should be meetings held around the state that involve more than just trout fishermen before legislation of this kind is passed. He expressed their opposition to the bill.

**Robert Twiford, One Way Marine**, handed in written testimony opposing HB 375. From a business standpoint this bill could create confusion with the fishing public and indirectly harm boat sales. A better way to stop illegal introductions was through more law enforcement, stricter penalties, and better fish cleaning and disposal stations. **EXHIBIT 20**

**Questions From Committee Members and Responses:**

**REP. TASH** asked **Paul Roos** for clarification about his testimony. **Mr. Roos** said he was afraid of losing wild trout fishing which could result in the loss of Montana's world class leadership as well as the economic activity that many people depend on.

**REP. WELLS** asked if keeping walleyes in live wells allowed fishermen to get the best flavor. **Riley Johnson** said yes. A true walleye enthusiast wants to be able to keep fish fresh because of the mucous problem. **REP. WELLS** had caught walleyes, filleted them at the lake, and later ate them at home. He thought they tasted fine. It had not been proven to him that the mucous on the skin made the fish taste bad or made them inedible. He asked if the mucous made the fish inedible. **Mr. Johnson** said it depended on a person's taste. The walleye tasted much better when transported home in live wells and then cleaned.

**REP. BOB RANEY** asked **Larry Peterman, Administrator of Fisheries Division, FWP**, to discuss the requirements for the movement of fish in and out of hatcheries, along with importation regulations for fish from out of state. **Mr. Peterman** said importation statutes were implemented in 1989. Any live fish that was imported from another state must have a disease-free certification from the place of origin. State hatcheries were routinely inspected several times per year. Private hatcheries were inspected upon request. Fish being imported into private hatcheries must also have a disease-free certification. **REP. RANEY** asked about the fish leaving private hatcheries. **Mr. Peterman** said that every fish leaving a private hatchery was not checked, but some private hatcheries were periodically inspected for disease.

**REP. RANEY** asked for more explanation regarding the 1-inch skin patch to remain on fish after filleting. **Mr. Peterman** said the issue was addressed after the last session. The Fish and Game Commission adopted a filet law. There was discussion about the amount of skin to be left on a fish for identification purposes. After discussion, the commission decided to require that the skin be left on one full side of the fish. Fishing regulations were currently being reviewed. He felt that this was the proper area to address updating this regulation.

**REP. RANEY** wanted to be sure everyone felt comfortable about the bill. He asked **Mr. Peterman** how the walleye fishermen's concerns could be addressed. **Mr. Peterman** said the issue arose last session, and it was brought before the commission. He would again commit himself to bring the issue through the regulation setting process. There should be a good case for the commission to consider changing the regulation.

**REP. RANEY** asked if it should be addressed in statute. **Mr. Peterman** assured him that he would speak to the commission about the issue. **REP. RANEY** asked why the commission rejected the idea of the 1-inch patch. **Mr. Peterman** recalled discussion about identification problems. For better identification, it was recommended that an entire side of skin remain on the fish.

**REP. KNOX** understood that walleye fisherman supported the 1-inch patch idea if fish need to be filleted on the site. **Don Groven** said the 1-inch patch would be acceptable. However, the cleaning sites around the state were inadequate. Good fisherman will haul the fish remains home for proper disposal. On the other hand, there would be some people who would not. Other states have proper facilities. The carcasses disposed of around lakes were unsightly and dangerous.

**REP. SLITER** asked **Mr. Peterman** if he was aware of what happened to the grayling in Rogers Lake. **Mr. Peterman** said yes. **REP. SLITER** asked about the type of fish that was transplanted that destroyed the grayling population. **Mr. Peterman** said the grayling population in Rogers Lake was impacted on two separate occasions by illegal introductions. The first impact was by yellow perch about 12 years ago, and the second time was a mixture of trout and yellow perch.

**REP. SLITER** asked about the cost of creating proper cleaning facilities. **Mr. Peterman** said he did not have that information available. **REP. SLITER** asked if it would be possible to completely remove the skin from the filet but retain the skin in a container for identification purposes until the fisherman got home. **Mr. Peterman** said he would have to give it some thought. The key was to have a portion of the skin attached to the fish to verify identification. He believed that the commission would probably give consideration to the size of the patch. Removing the skin entirely may cause some identification problems.

**REP. SLITER** said he was a trout fisherman and favored the bill. However, he felt that all fishermen should be treated equally. It appeared that the walleye fishermen were being harassed by the FWP. **Mr. Peterman** said the issue of live transport was not an easy one to deal with. Both trout and walleye fishermen were working toward the same goals of protecting the fisheries and its resources. However, it has been difficult to address the issue adequately when it was legal to transport live fish. He emphasized that HB 375 was not a "live well" bill but rather a

"live transport" bill. It addressed all of the ways of transporting live fish.

**REP. SLITER** wanted to pass the bill. However, he wanted FWP to work with walleye and other fishermen making an effort to accommodate all fishermen. **Mr. Peterman** said he was willing to discuss problems and try to arrive at solutions. This issue deserved further consideration.

**REP. REHBEIN** understood that it was currently illegal to introduce fish into any body of water unless it was accomplished by the department. **Mr. Peterman** said he was correct. FWP was required to undergo extensive environmental assessments.

**REP. REHBEIN** asked about the percentage of the problem that rested with walleyes. **Mr. Peterman** did not have recent illegal introductions that involved walleye or other species. FWP did not try to characterize problems by specific species. In regard to walleye, recent illegal introductions were made into Canyon Ferry Lake, Knox Reservoir, Flathead River, Salmon River, and the Bitterroot River. The yellow perch has also been illegally introduced. **REP. REHBEIN** stated that the introduction of walleye into various lakes in Montana was already illegal. **Mr. Peterman** said he was correct.

**REP. MARSHALL** commented that since 1935 he had owned property in Ontario, Canada. He stated that the bill had good intentions. However, similar laws were found to be ineffective there. He had seen pristine lakes destroyed through the illegal introduction of fish. **REP. MARSHALL** suggested that FWP contact Canada and obtain copies of their current laws. They have been very successful controlling illegal introductions of fish. There was a skin patch regulation for both walleye and trout. Their laws have been beneficial in preserving some of their pristine lakes.

**REP. HIBBARD** asked **Mr. Johnson** if the 1-inch patch regulation were put into place and if adequate cleaning facilities were built, would the bill be acceptable to him. **Mr. Johnson** referred the question to **Mr. Groven**. **Mr. Groven** said that their organization had identified the problems with the filets and inadequate facilities. The commission did not respond to any of their requests. If the issue had been properly dealt with, there would not be a problem. His organization wanted to support Montana, compromise on issues, and improve the fishing. Since the filet law has been enacted, fish remains have been found on the side of the lakes, rivers, docks, and in outhouses. **CHAIRMAN WAGNER** restated **REP. HIBBARD's** question. **Mr. Groven** said if cleaning facilities were built, the 1-inch patch would be acceptable.

**CHAIRMAN WAGNER** stated that the reason the hearing was postponed originally was because Walleyes Unlimited wanted to meet with various groups to find compromises. He asked about the results of those meetings. **Mr. Johnson** said there were no positive

results from those meetings. One month ago, they met with FWP to try and resolve issues before the bill was even drafted. They examined many different possibilities. However, he felt that FWP had not honestly tried to compromise or find solutions.

**CHAIRMAN WAGNER** asked **Mr. Peterman** if walleye carried whirling disease. **Mr. Peterman** said that it had never been reported in walleye. **CHAIRMAN WAGNER** asked about the manner in which the spread of disease would be reduced if live wells were no longer used. **Mr. Peterman** said the transplanting of fish was not restricted to walleyes. People used live wells to transport other fish as well.

**CHAIRMAN WAGNER** asked about the exemptions found in the bill. **Mr. Peterman** said the aquarium trade was exempt from most import and transport regulations. That probably would not change with the passage of the bill. The introduction of aquarium fish into bodies of water was illegal. **CHAIRMAN WAGNER** asked if aquarium fish were tested for disease. **Mr. Peterman** said no.

*{Tape: 3; Side: B; Approx. Counter: 000; Comments: Lost 10 seconds.}*

**CHAIRMAN WAGNER** asked **REP. HARPER** why the bill did not pass during the last legislature. **REP. HARPER** said that question would be more appropriate to discuss in executive session.

**CHAIRMAN WAGNER** referred to **Mr. Graham's** testimony where both state and federal agencies made mistakes with fish introductions in the past. There were two good fisheries for bull trout where he lived. Lake trout have had a negative impact on them as well as salmon. He asked **Mr. Peterman** if the lake trout were originally introduced by the department. **Mr. Peterman** said the lake trout and Lake Superior whitefish were introduced shortly after the turn of the century by the Fish and Wildlife Service when they were operating the hatchery.

**CHAIRMAN WAGNER** asked if whirling disease was strictly a rainbow trout problem. **Mr. Peterman** said no. Rainbow trout were the most susceptible fish to the disease. There were other trout and certain species of salmon that were susceptible to the disease. **CHAIRMAN WAGNER** asked if whirling disease originated in the hatcheries or in the wild. **Mr. Peterman** said the disease initially came the United States in the 1950's. It was contained in frozen processed fish and was transported to the west in the 1960's. In the later part of the 1980's, there were isolated occurrences of the disease. Most of the initial introductions came from some form of hatchery planting. It has generally been spread by the private hatcheries with the exception of Colorado.

**CHAIRMAN WAGNER** asked if the disease could be spread by birds. **Mr. Peterman** replied that was a possibility, although, they were not likely mechanisms for the transmission of the disease. **CHAIRMAN WAGNER** asked if there was a cure for whirling disease. **Mr. Peterman** explained that once it became established in the

wild, there was no way to eradicate it from a river system. FWP was examining some of the surviving fish in the Madison River to see if any of the fish developed an immunity.

**REP. WELLS** commented that even if the bill passed, the problem would exist of catching people in the act of transporting and transplanting fish. Walleye were only a percentage of the problem regarding illegal introductions. He asked **Mr. Peterman** about excluding walleye from the bill so they could be transported in live wells for better consumption. **Mr. Peterman** explained that walleyes have been introduced on several occasions into bodies of water in Montana along with a few large hatcheries. This was the introduction of a predator and it negatively impacted those fisheries.

**CHAIRMAN WAGNER** referred to page 2 that included an exemption for live bait. He asked **Mr. Peterman** if they could have an effect on the whirling disease situation. **Mr. Peterman** said the use of live bait was restricted to the eastern fishing district. It was not allowed in the central and western fishing districts.

**CHAIRMAN WAGNER** asked the reason the live well problem was not resolved through the commission. **Mr. Peterman** said that during the interim the issue of illegal introduction was supposed to be addressed and worked on. FWP had created packets of information for the public regarding the issue, met with people, and produced 3-minute informative videos.

**Closing by Sponsor:**

**REP. HARPER** said he was grateful for the work that Walleyes Unlimited had done. HB 375 attempted to provide help in reducing the spread of whirling disease as well as preventing illegal fish transplanting. The parameters of the disease were currently unknown. It was known that it had a two-stage life cycle and lived in little worms called tubafex worms. There was the possibility that the mud on the bottom of a boat being taken out of one river and placed in another could possibly transmit the disease. However, it was more likely that if fish were transplanted or cleaned by the side of the lake, the disease would spread. Carcasses left by the lake still contain spores and it was unknown how long their life cycle was.

He emphasized the language "away from the body of water." A fisherman could remove his boat from the water and not be ticketed. He wondered how walleye fishermen endured before the invention of live wells. However, HB 375 was not "aimed" at that issue. Live wells were perfect transplanting machines and it was only a coincidence that walleye fishermen seemed to be the majority that used them. The bill should give walleye fishermen some leverage in dealing with the commission. He emphasized that there may be other ways to try and prevent disease and illegal transplanting, but a person has to be caught in the illegal act.

This was virtually impossible. On occasion, even when a person is caught, they were not prosecuted because of technicalities.

REP. HARPER believed that HB 375 was only way to prevent illegal activities. An effort must be made to develop compromises with Walleyes Unlimited. At the same time, however, the committee must give the proper tools to the department to protect our economy, preserve healthy fish populations, and prevent illegal transplanting.

#### EXECUTIVE ACTION ON SJR 5

Motion: REP. TASH MOVED SJR 5 BE CONCURRED IN.

#### Discussion:

REP. REHBEIN commented that the issue should be handled on a local level. He expressed opposition to the resolution.

REP. TASH stated that this was a one-time opportunity. A large amount of money from the family that currently owned it has been expended on the preservation.

REPS. HARPER, HIBBARD, RANEY, and KNOX expressed support for the resolution.

Vote: Motion carried 15 to 3 with REPS. SLITER, REHBEIN, and WAGNER voting no.

#### EXECUTIVE ACTION ON HB 391

Motion: REP. HIBBARD MOVED THAT HB 391 DO NOT PASS.

Substitute Motion/Vote: REP. FUCHS MOVED THAT HB 391 BE TABLED. Substitute motion passed unanimously.

{Tape: 4; Side: A; Approx. Counter: 000; Comments: Lost 10 seconds.}

#### EXECUTIVE ACTION ON HB 339

Motion: REP. MOLNAR MOVED THAT HB 339 DO PASS.

#### Discussion:

REP. MOLNAR stated that the bill was not totally unsupported. The people that were adversely affected by the commission supported the bill. It was the legislature's job to give the Fish and Game Commission leadership and guidance. The commission's job was to handle all of the details involved in enforcing regulation. His desire was to change from a region to

a district managed system. It was not his intent to target certain game hunters.

REP. TASH spoke in opposition to the bill. The opponents have much credibility. However, the commission needed the flexibility to establish harvest quotas and to properly manage game.

REP. WELLS asked REP. MOLNAR if an amendment could be added to address the landowner preference program. REP. MOLNAR said yes. However, he did not know if that would be desirable to do since so many people opposed the bill.

CHAIRMAN WAGNER said that when the outfitters came to testify on the bill they were "ready to do battle." However, the manner in which REP. MOLNAR explained the bill somewhat diffused that sentiment. Concern had been expressed over the Bob Marshall Wilderness area and dividing that up because of sheep hunting. REP. MOLNAR said there were 7 sheep permits and 70 ewe permits and they were all in one district. He was just asking for consistency by changing regions to districts and better distribution of permits for game animals.

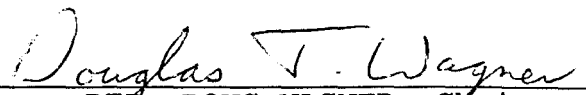
REP. REAM expressed opposition to the bill. He emphasized the function of the commission. Decisions such as this should be made there. CHAIRMAN WAGNER commented that in several instances the commission had not taken care of the people's requests. Perhaps removing some of their latitude through statute was the proper way to address some of the problems.

Vote: Motion failed 12 to 6 with REPS. WELLS, HARPER, MOLNAR, RANEY, FUCHS, and WAGNER voting yes.

Motion/Vote: REP. MOLNAR MOVED THAT HB 339 BE TABLED. Motion carried unanimously.

#### ADJOURNMENT

Adjournment: 6:58 p.m.

  
REP. DOUG WAGNER, Chairman

  
MARY RIITANO, Secretary

DW/mr

# HOUSE OF REPRESENTATIVES

## Fish and Game

ROLL CALL

DATE February 7, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Doug Wagner, Chairman	✓		
Rep. Bill Rehbein, Vice Chairman, Majority	✓		
Rep. Emily Swanson, Vice Chairman, Minority	✓		
Rep. Charles Devaney	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper	✓		
Rep. Chase Hibbard	✓		
Rep. Dick Knox	✓		
Rep. Rod Marshall	✓		
Rep. Brad Molnar	✓		
Rep. Bob Pavlovich	✓		
Rep. Bob Raney	✓		
Rep. Bob Ream	✓		
Rep. Paul Sliter	✓		
Rep. Bill Tash	✓		
Rep. Jack Wells	✓		





## HOUSE STANDING COMMITTEE REPORT

February 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Joint Resolution 5 (third reading copy -- blue) be concurred in.

Signed: Douglas T. Wagner  
Doug Wagner, Chair

Carried by: Rep. Ohs

Committee Vote:  
Yes 15, No 3.

331335SC.Hbk

375 NO

5125 YES

391 NO

339 389 NO

Sevancey

SENATE J.R. - 5- Yes

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HB-339- No

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HB-391- No

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HB-375- Yes

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PAVLOVICH

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I bet Mr. King's time  
yes on any thing he does.

EXHIBIT 1  
DATE February 7, 1995  
~~SJR~~ 5

TSJR 5.HS

Bill No. SJR 5  
February 7, 1995  
Testimony presented by Pat Graham  
Montana Fish, Wildlife & Parks  
before the House Fish and Game Committee

Montana of Fish, Wildlife & Parks strongly supports the preservation of Virginia City because of its historical significance to Montana. It is one of the few remaining remnants of the authentic American West and is internationally recognized. The Department currently manages Bannack State Park near Dillon, which was Montanan's first territorial capital. Our research indicates many common threads of history in the lives of early Montanan's between Bannack and Virginia City. The two sites complement each other and, provide economic benefits to southwest Montana as important visitor attractions.

The Department has experienced a positive partnership with the National Park Service in turning over Bearpaw Battlefield to them in 1994. The National Park Service has extensive resources and expertise in the area of historic preservation and interpretation which would help to preserve and enhance this site for future Montanan's and their visitors. Therefore, we urge passage of SJR 5.



## National Trust for Historic Preservation

EXHIBIT 2  
DATE February 7, 1995  
SJR 5

January 20, 1995

To the Members of the Montana Senate and House of Representatives:

On behalf of the National Trust for Historic Preservation, a private nonprofit organization with more than 250,000 members across the country, I would like to express strong support for Senate Joint Resolution Number 5, urging establishment of a new unit of the national park system in Virginia City, Montana.

Preservation of Virginia City has been a top priority of the National Trust for more than three years. The town was listed by the Trust as one of the nation's *11 Most Endangered Historic Places* in 1992, 1993 and 1994, joining other well-known sites on the list such as the French Quarter in New Orleans, Ellis Island in New York and Frank Lloyd Wright's home and studio in Wisconsin.

The National Trust has committed significant time and resources to the development of a long-range plan for Virginia City that preserves the town's history while also respecting the wishes of its current residents. Recently we assisted in the creation of the Virginia City Preservation Alliance, a locally based nonprofit group that is now leading the effort to preserve the town.

We are also participating as a full team member in the National Park Service's Special Resource Study of Virginia City. The draft of this study confirms Virginia City's historic significance and suitability for inclusion in the national park system. The study also outlines how private citizens, nonprofit groups, the state of Montana and other federal agencies can work as partners with the National Park Service to preserve both Virginia City and nearby Nevada City. Last year's emergency stabilization workshop in Virginia City, led by the US Forest Service with help from the National Trust and volunteers, is an example of how such a partnership approach can work.

The momentum to save Virginia City is growing. Along with Virginia City residents, Montanans and others from across the nation, we encourage you to join in the effort to secure Virginia City's future by supporting Joint Resolution Number 5.

Sincerely,

Barbara Pahl, Director  
Mountains/Plains Regional Office  
National Trust for Historic Preservation

Mountains/Plains Regional Office  
910 16th Street, Suite 1100  
Denver, Colo. 80202  
(303) 623-1504 / FAX (303) 623-1508

National office:  
1785 Massachusetts Avenue, N.W.  
Washington, D.C. 20036  
(202) 673-4000

EXHIBIT 3  
DATE February 7, 1995  
~~FILE~~ 5

Tuesday afternoon  
February 7, 1995

To: House of Representatives Fish and Game Committee  
Chairman Doug Wagner

From: John Noyes, Virginia City Preservation Alliance President and Linda Hamilton,  
Mayor, Virginia City

RE: SJR5, A Resolution in Support of Federal Acquisition of Virginia City properties

Chairman Wagner:

Before your committee takes executive action on the SJR5, we wanted to offer a quick note of clarification:

The National Park Service Special Resources Study for Virginia City contains several alternatives for federal involvement, federal money, and local involvement. **The National Park Service's preferred alternative does not propose permanent federal acquisition of the Bovey holdings in Virginia City. Rather it proposes using federal funds to acquire and restore the now-threatened Bovey holdings, to turn administration/management of those holdings over to the Virginia City Preservation Alliance, and to offer the Alliance the option of acquiring the holdings outright over a period of time.**

Congress may consider and choose portions of several alternatives outlined in the Study. However, the National Park Service's preferred alternative addresses everyone's current concern about fiscal limits and local control--as well as preservation of our economy and our history.

*Linda Hamilton*  
Mayor

*John Noyes*  
President VCPA

HOUSE OF REPRESENTATIVES

SUB-COMMITTEE

WITNESS STATEMENT

PLEASE PRINT

NAME JOHN D. ELLINGSEN BUDGET \_\_\_\_\_

ADDRESS Box 323 Virginia City, MT DATE 2-7-95

WHOM DO YOU REPRESENT? Virginia City, Montana

SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS: Virginia City is unique as a historic  
resorce, and one of the top 3 tourist attractions  
in Montana. It deserves to be preserved

John D. Ellingsen



## MONTANA PRESERVATION ALLIANCE

P. O. Box 1872, Bozeman, Montana 59771-1872 (406) 585-9551

President  
Jon Axline, Helena

February 7, 1995

Vice President  
Kathy Macefield, Helena

Dear Montana Legislators:

Secretary  
Kathy McKay, Columbia Falls

*"How will we know us without our past?"*  
-- John Steinbeck

Treasurer  
John McDonald, Missoula

Directors  
Kathy Doeden, Miles City  
Judy McNally, Billings

John Shelden, Lewistown  
Marcella Sherfy, Helena

Evan Sievert, Great Falls  
Keith Swenson, Bozeman

Brian Brolin, Anaconda

John Brumley, Havre  
Mary McCormick, Butte

The Montana Preservation Alliance (MPA) is a state-wide non-profit organization that was founded to further historic preservation of our cultural heritage through technical assistance and advocacy. MPA has been involved in both the planning "Alternatives Study" and advocacy for Virginia City. MPA strongly supports keeping Virginia City a historic community.

As a former territorial capitol, perhaps the West's best preserved placer mining town, and a major Montana tourist attraction, it is important to the state's economy and cultural identity to safeguard this endangered site. Virginia City is equally important for our national identity as a well-preserved example of frontier history.

Virginia City represents an ongoing educational tool to help us understand the role of gold mining in the United States today and yesterday, and serves as an example of how our western history was shaped. It is currently listed by both the National Trust for Historic Preservation and the National Park Service as one of the nation's most endangered landmarks.

Help save the legacy. Please support Senate Joint Resolution Number 5. Thank you.

Sincerely,

Kathy Macefield  
1995 MPA President



February 7, 1995

EXHIBIT 6

DATE February 7, 1995

HB 391

Representative Doug Wagner  
Chairman Fish and Game

Regarding H.B. 391 R. DeBruycker, Limit location of shooting preserves to 40 miles from another shooting preserve. Shooting preserves with current licence will be exempt.

I met with representatives from Fish, Wildlife, and Parks before having this proposal submitted by Rep. DeBruycker. They stated they would not oppose it and that yes, a limit like this would help enforcement.

In theory, this distance would allow approximately 90 shooting preserves in Montana. There are now 53. Of these 1 is licenced to a party in Wyoming, 1 in Texas, 2 in California, and 2 are in the name of Ted Turner. This is an example of what is happening.

By way of comparison.

North Dakota, 500,000 population, 16 preserves.

South Dakota, 800,000 population, 96 preserves.

Wyoming, 500,000 population, 15 preserves.

Idaho, 1,000,000 population 10 preserves.

Washington, 5,000,000 population 13 preserves.

Shooting preserves and bird farms work together. The investment is very heavy for the return.

Like any business that is in excess, cut rates start to apply. The end result being too many bird pens without birds, and too many shooting preserves without shooters.

Thank you,  
Loran A Perry  
Box 355  
Fort Benton, Mt. 59442

*Loran A Perry*

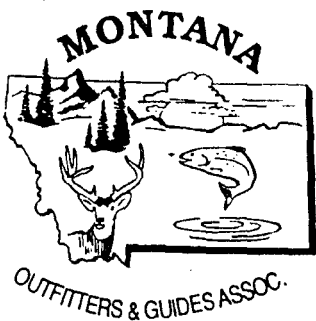
Bill No. HB 391  
February 7, 1995  
Testimony presented by Pat Graham  
Montana Fish, Wildlife & Parks  
before the House Fish and Game Committee

THB391.HS  
EXHIBIT 7  
DATE February 7, 1995  
HB 391

The Department can support legislation to increase the 10 mile limitation for shooting preserves to 40 miles. The mileage restriction is currently the primary criteria in law used to approve or deny a shooting preserve application.

The 10 mile restriction was implemented in part to protect large blocks of prime pheasant habitat from going into shooting preserves. Public hunting opportunity would be lost under such a situation since the season for shooting preserves runs from September 1 to March 31. Although captive birds are released, wild birds can also legally be harvested during this seven month period.

The number of shooting preserves has doubled in recent years. There were 26 shooting preserves in 1991 compared to 54 in 1994. This rapid expansion has created concern from current operators. The Department is likewise concerned that the statutes may not be sufficient to protect the wildlife resource. Instituting necessary changes are beyond the scope of this bill. We plan to present a more comprehensive plan to the 1997 Legislature.



33 S. Last Chance Gulch, Suite 2 B • P.O. Box 1248 • Helena, MT 59624 • (406) 449-3578

*"Where respect for the resource and a quality experience for the client go hand in hand."*

HB 339, sponsored by Rep. Brad Molnar

Feb. 7, 1995

EXHIBIT 8  
DATE FEBRUARY 7, 1995  
HB 339

There are three reasons to oppose HB 339:

- (1) HB 339 seeks to deny hunting opportunities to nonresidents, in some instances even on federal land.
- (2) Special licenses and permits are some of the tools used by the Fish, Wildlife and Park Commission and Department to manage Montana's wildlife. HB 339 allows the legislature to take those tools away.
- (3) HB 339 is a back-door approach to deny landowners the right to use the landowner preference category on an annual basis.

Let's look at each reason separately:

- (1) In Region 700 in 1994, nonresidents actually received 28% of the antelope licenses issued by the commission. How did that happen? And where did the authority come from? Let's look at antelope licenses in Region 1.

1991 (13,000 either sex licenses issued) 6,710 residents applied; 6,710 residents received. 4,283 nonresident applied. 4,276 nonresidents received (33%) .

1992 (same 13,000) 6,912 residents applied; 6,912 residents received. 4,362 nonresidents applied. 4,333 nonresidents received. (33%) .

1993 (same 13,000) 7,471 residents applied; 7,470 residents received. 4,706 nonresidents applied; 4,610 nonresidents received. (26%) .

1994 (12,000 either sex licenses issued) 7,660 residents applied; 7,649 residents received. (The 11 residents who failed to draw a license had applied in parties with nonresidents, which drew them into the nonresident categorie.) 5,113 nonresidents applied; 3,412 nonresidents received. (28%)

If HB 339 had been in effect, 1,200 nonresidents would have received a license; 2,212 licenses would have been left on the counter. The purpose of issuing 12,000 licenses is to harvest excessive antelope; that can't occur when 2,212 licenses are left unsold. And yes, they can remain "available" for residents who decide at the last minute that they want to hunt antelope. Or they can go to nonresidents whose presence is felt and appreciated by Main Street Montana, as expressed by business men and women in Powder River County. This is not an outfitter issue: we estimate that approximately 90% of the 2,212 licenses that would have been left unsold in 1994 were nonguided. Nonguided nonresidents drop their money at motels, gas stations, restaurants, grocery stores and hardware stores at a time when small businesses really need that injection of cash because the tourists are gone.

**By what authority did the nonresident hunters receive 28% of the antelope licenses issued in Region 7 in 1994?** The answer is found in 12.3.105 ARM. "12.3.105 LIMITATION ON NUMBER OF HUNTING LICENSES (1) When the department sets a limitation or quota for the number of hunting licenses to be issued in any hunting district or other designated area, resident applicants shall receive at least 90% of the total hunting licenses to be issued for that game species in that district. When the number of resident applicants totals less than 90% of the quota for that district, all resident applicants shall receive a hunting license for that game species. (2) The remaining licenses will be issued to the nonresident applicants for that district by drawing. (3) Any thereafter remaining licenses for that district shall be issued in such manner as the director determines." IMP. § 87-2-706 (3).

(2) Currently, in hunting districts where fewer than 10 licenses are issued, the commission totals the number of those licenses and nonresidents may draw up to 10% . If the commission loses that flexibility, and no nonresidents are allowed to hunt, particularly on the national forest, the state becomes moments away from litigation. I would expect the Foundation for North American Wild Sheep to lead the parade, and we would certainly support their efforts. Our fear would be that such litigation would ignite passions elsewhere and we could face an unwanted congressional effort to provide a generic hunting license for federal lands, which would be difficult to support and which would consume resources best applied in other areas.

(3) "Golden Districts". Fairness is a laudable argument, but is fairness driving the creation of Golden Districts, or is there a hidden agenda that seeks to nip at the heels of landowners who use the "landowner preference" category? Fairness is not a guarantee under Section 3. In fact, in the 13 hunting districts that would qualify as "golden district" the odds of drawing a license would improve over the five year period by only a few points. At the same time, those landowners who can access the landowner preference category are denied the hunting opportunity provided by the legislature for five years following a successful draw. If there is a problem with the landowner preference, then it should be addressed up front.

For these reasons, we hope you will vote against HB 339.

EXHIBIT 9DATE February 7, 1995HB 339POWDER RIVER COMMERCIAL CLUB  
BROADUS MONTANA

To: All Members of House Fish &amp; Game Committee

Powder River Commercial Club is made up of businesses in the Broadus, Montana and surrounding area. At our Feb. 6th meeting we were given a copy of HB 339, our membership is very much opposed to this legislation. The impact of this bill would be very detrimental to our local economy as well as limiting the Fish & Game Department's ability to manage game in our area. We request you oppose this legislation.

We would also request your support for HBs 195 & 196 as amended by Rep Swanson.

Russell Greenwood

David L. Hartman C.P.A.

Mike Capps

Mark Capps

Della Arceles V.P.

Bruce Catlett

Joe S

Jerry Walker, LARRY SEA

Marilyn Threlton

Sylvia J. Rasmussen

De Ann Rhoden

Wendy Hedges

Earl M. Mendenhall

Julie Liley

Mary Capps

Larry Walker

Kyle Butts

Victor Phillips

Jack & Bill Mendenhall

Curt & M. Carnick

Patsy Kidenour

Re: HB 339

February 7, 1995

To: Members of Fish & Game Committee

I am Mary Ellen Schnur, Secretary-Treasurer and board member of the Foundation for North American Wild Sheep Montana Chapter. Our Board discussed this bill at our meeting February 4. We believe the current special permit process should remain as it is. To change the process as HB 339 proposes will restrict the Department of Fish, Wildlife, & Parks in its ability to manage wildlife populations by harvest. It will also cause extreme inequity in the issuing of nonresident permits for moose, goat and sheep. Like it or not, nonresidents do have an established right to hunt in our state.

At the present time, nonresident permits are limited to no more than ten percent of the total by region for moose, sheep and goat. In reviewing the drawing statistics for the past ten years, the actual percentages that nonresidents have drawn for these three species has been in the 3-6% range. The Department rotates the opportunity for nonresidents to apply through regions by district, so that the resident hunters do not have to compete with nonresident applicants year after year in the same district.

In 1994, there were 117 moose hunting districts. Under the current regional drawing system, nonresidents were eligible to apply in 63 districts. Under the proposed district drawing system, there will be only 21 districts in which nonresidents may apply. In 1994 ~~Twenty-one~~ nonresidents drew moose permits in ~~20~~ districts. If they can apply in one third as many areas, we can expect they will draw one third as many permits, and maybe less.

Similarly, in 1994, there were 55 goat hunting districts. Nonresidents were eligible to apply in 24 districts. ~~Ten~~ nonresidents drew permits in ~~10~~ districts. Under the district drawing system proposed in HB 339, only six goat hunting districts would be available to nonresidents.

In 1994, there were 43 limited sheep hunting districts. Nonresidents were allowed to apply in 16 of them. 11 nonresident hunters drew either sex permits in five districts; one nonresident drew a ewe permit in another district. Under HB 339, only 7 districts would be available for nonresidents to apply in, and only two of them would be for either sex permits.

You can see that there are very few nonresidents currently drawing permits to hunt moose, goat or sheep. We believe this small number is not a threat to the wildlife of Montana. We see no reason to further decrease the opportunity for nonresidents to apply for moose, goat, or sheep licenses.

EXHIBIT 11  
DATE FEBRUARY 7, 1995  
HB 339

THB339.HO

Bill No. HB 339  
February 7, 1995  
Testimony presented by Pat Graham  
Montana Fish, Wildlife & Parks  
before the House Fish and Game Committee

The Department is opposed to House Bill 339. Current statute already provides for a 10 percent nonresident limitation for permits and licenses that are issued through the drawing process. The Department has established rules through public input and review to implement the 10 percent restriction. These rules are consistent with what we consider the intent (MCA 87-3-303) of the 10 percent limitation - providing Montana hunters with preferential treatment in obtaining the special licenses and permits.

Antelope licenses in eastern Montana have exceeded the resident demand in 24 of the last 25 years. In administrative region seven where nonresidents have exceeded the 10 percent limitation, residents that have applied during the normal drawing process for a region seven license have received one. Resident hunters have the opportunity to select three choices when applying for antelope. It is only after all resident applications are filled that the 10 percent nonresident limitation is exceeded. We agree that there may be residents who have not received a license, but it is a result of their choice in the application process. We feel that the current rules that the Department has implemented meet the test of reasonableness. Failure to sell all the antelope permits can cause game damage problems to landowners and might require the Department to issue kill permits during game damage seasons.

Regional quotas are and have been used to set the ten percent limitation in four areas: moose, sheep, goats and region seven antelope. Management of moose, sheep and goat generally requires smaller hunting districts and fewer licenses. Hunting districts are reduced in size to more accurately direct harvest to specific drainages. The resulting small license numbers preclude any nonresidents from being considered. The Department has approached this by using a regional total of permits which represents more fairly the opportunity for applying for the license. Even with this arrangement for moose, sheep and goats nonresidents have only received 3.5 percent of the licenses. They have never reached the 10 percent limitation because of the odds of drawing a license. The fact that they only receive a small percentage of these special licenses has prompted some groups to consider legal action because much of the hunting occurs on federal land. The Department considers its approach a fair and defensible method of addressing this concern.

Implementing a mandatory five year waiting period for permit holders in golden areas will not significantly increase the odds of successfully drawing a permit (attached table). The limited number of permits in these areas combined with the high numbers of applicants results in minor changes even if the applicant level were to stay the same. We recognize that the concept of restricting opportunity for those who have been successful is popular. The cost of running such a program makes the benefits questionable. At a time when reducing government is also in the forefront, it seems contradictory to move forward with this proposal if little direct benefit can be demonstrated.

The landowner preference will not be affected by the five year waiting period since the landowner may designate the permit to another family member as designee. The bill as written only applies to the person who receives the permit.

In summary the Department considers the rules which it has implemented to be fair and responsive to the current legislation that exists. Further regulation will not result in significant changes in numbers of nonresident hunters able to draw a special permit, but will increase the cost to the Department.



EXHIBIT 11A  
DATE FEBRUARY 7, 1995  
HB 339

**Antelope Statistics for Region 7**  
(Administrative District 700)

<u>Year</u>	<u>Quota</u>	<u>Res 1st Choice Applications</u>	<u>Res Success</u>	<u>Non-Res Success</u>	<u>Surplus</u>
1994	12,000	7,660	8,588	3,412	0
1993	13,000	7,471	8,390	4,610	0
1992	13,000	6,912	7,844	4,590	566
1991	13,000	6,710	7,713	4,535	752
1990	13,000	6,802	7,817	4,232	951

**Elk Statistics for 1994**  
**(Golden Areas by proposed definition)**

<u>District</u>	<u>Quota</u>	<u>Number of Applications</u>	<u>Chance of Success</u>	<u>After 5 Yrs</u>
310-03	10	294	1/29	1/24
313-02	105	2,707	1/26	1/21
401-01	20	424	1/21	1/16
410-01	55	1,713	1/31	1/26
621-01	10	164	1/16	1/11
622-01	30	1,211	1/40	1/36
623-01	20	615	1/30	1/26
631-01	10	273	1/27	1/22
632-01	10	322	1/32	1/27
690-01	20	568	1/29	1/23
700-01	25	682	1/27	1/22
704-00	10	195	1/20	1/14
880-01	60	1,946	1/32	1/28

THB375.HP

Bill No. HB 375  
February 7, 1995  
Testimony presented by Pat Graham  
Montana Fish, Wildlife & Parks  
before the House Fish and Game Committee

The illegal movement of live fish from one water body to another can pose a serious threat to the well being of Montana's fishery resources and the state's recreational fishing opportunities. This problem is widespread and growing throughout parts of the state. The impacts are often irreversible and can affect the productivity of the state's water and their recreational use. The concern is heightened with the recent discovery of whirling disease in Montana. The problem is more acute now that anglers have become increasingly mobile and they have acquired equipment capable of easily transporting live fish longer distances.

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

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

Another immediate concern with the transport of live fish is the potential for transfer of disease. The introduction of a new disease to a body of water can have dramatic results as we have seen with whirling disease in the Madison River. In that case, the rainbow population declined by more than 90 percent. It has yet to recover. Imagine the consequences of spreading that disease to other waters.

It is imperative to slow or halt the spread of this disease. Prohibiting the transport of live fish is one necessary step of several required to accomplish this.

Five years ago we documented the existence of 160 illegal introductions of fish in waters in Montana. Since then we have documented nearly 50 more illegal introductions.

There are many examples across the state:

Rogers Lake in northwestern Montana was once populated with Arctic grayling. It was a source of excellent fishing and a source of grayling eggs for the fish stocking program. Illegal introduction of perch resulted in the complete loss of the grayling fishery in just four years. After the lake became populated with stunted 4" perch, it was treated with chemicals and restocked with grayling.

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

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

Lake trout were discovered this past summer in Yellowstone Lake, the last stronghold for the Yellowstone cutthroat trout. Superintendent of Yellowstone Park, Bob Barbee stated "The presence of this fish in Yellowstone Lake may not seem significant to some people, but we appear to be on the verge of an ecological disaster. The potential consequences of this thoughtless act are enormous." If lake trout were to be introduced to Swan Lake in northwest Montana, it would threaten one of the last bull trout fisheries in Montana and move that species closer to listing.

Montana Fish, Wildlife & Parks (FWP) has spent thousands of dollars in attempting to rehabilitate some of these waters. In some instances, introduced species can be chemically treated and removed, but this is often quite costly and results are mixed. It is difficult to achieve complete eradication and the nuisance species often continue to be illegally introduced. If the body of water is too large or deep to effectively eradicate the fish population, the introduced species becomes a permanent resident and the quality of the fishery is permanently affected.

There are numerous other examples of illegal introductions across the state. In northwest Montana, Lion Lake was rehabilitated for \$12,000 and Rogers Lake was rehabilitated for \$25,000. Fishing in Lion Lake has gone from near nothing to dozens of anglers per day. But it costs money that could have been spent on improving, not reclaiming, fisheries. Clark Reservoir and South Fork Reservoir in eastern Montana were rehabilitated at a cost of over \$4,000 and fishing is good again. But at \$13 per angler, it takes the equivalent of revenues from 150 fishing licenses to treat a prairie pond. Lake Mary Ronan would require the equivalent of more than 23,000 fishing licenses.

FWP and federal fish managers created many fishing opportunities but also made some mistakes with fish introductions in the past. FWP, prior to introducing a new species to a body of water, now undertakes a rigorous environmental analysis. Even then, there is some level of risk with any new introduction. It is little wonder that illegal introductions by people who think they have a better idea often end up doing far more harm than good.

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

A bill similar to this, was introduced in the 1993 legislature. At that time, a major concern expressed by anglers was FWP Commission rules prohibited filleting fish before transport to a permanent residence. The Commission has since modified that rule. The regulations now allow anglers to fillet fish in the field and thus eliminate the need to transport live fish to their residence.

This legislation will not affect those persons with valid permits to transport or possess live fish, such as private pond operators, commercial fish hatcheries, persons issued scientific collectors permits, or persons holding valid import permits.

This is not an anti-live well bill as some suggest. It is a bill with the single purpose of reducing the threat of illegal fish introductions. Live wells are but one of the methods by which fish can be transported alive, but to be effective, all potential threats must be eliminated.

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

During the past two years, considerable information has been put out regarding illegal introductions. The Montana Federation Newsletter, the Walleye Unlimited publication "Fish Tales" and Department publications and news releases have all had articles discussing the problem. We met with leaders of the major fishing organizations last year and distributed packets of information on illegal introductions and offered a \$10,000 reward for information leading to the arrest and conviction of those responsible for the illegal introductions into Canyon Ferry Reservoir.

The practice of allowing unregulated transportation of live fish is a significant risk to Montana fisheries.

We urge your support of this bill.

WHY PASSING HB 375, WHICH PROHIBITS  
THE TRANSFER OF LIVE GAME FISH,  
MAKES GOOD BUSINESS SENSE FOR MONTANA

\*\*\*\*\*

PREVENTING ILLEGAL FISH STOCKINGS IS FAR MORE COST-EFFECTIVE THAN DEALING WITH THEIR HARMFUL IMPACTS AFTER THE FACT. BANNING THE TRANSPORT OF LIVE GAME FISH IS A VALUABLE PREVENTION TOOL FOR PROTECTING FISHERIES.

\* Anglers, many who chase wild trout, contribute an estimated \$250 million annually to Montana's economy.

\* Illegal fish introductions, which can't occur without the transport of live fish, are hurting Montana businesses. For example:

- Whirling disease, recently discovered in the wild trout population of the Madison River, seriously threatens that fishery, which is estimated to be worth \$33 million annually to Montana's economy. DFWP strongly suspects the disease was introduced through illegal stocking.

- An illegal introduction of walleyes into Canyon Ferry Lake could ruin the lake's popular rainbow trout fishery, as well as the Missouri River's nationally acclaimed wild-trout populations, which are critical to tourism economies in Helena, Craig and Wolf Creek.

- Last year's discovery of exotic lake trout in Yellowstone Lake, the result of an illegal stocking, could devastate the lake's native Yellowstone cutthroat trout fishery. This cutthroat fishery attracts hundreds of thousands of anglers a year. Because the lake is the nation's last stronghold for native Yellowstone cutthroats, it is an important element of Montana's plans for ensuring these disappearing fish don't end up on the endangered species list.

- Illegally stocked walleyes, bass and pike have been found in Canyon Ferry, the lower Clark Fork River and the Bitterroot River, threatening trout fisheries valued in the millions.

\* Though it is illegal for anglers to transplant fish in Montana, it is not illegal to transport them. Therefore, wardens can stop illegal stocking only when they actually see someone dumping fish in a lake or stream. By

outlawing the transport of live fish, wardens and concerned anglers can help prevent costly illegal introductions. HB 375 will encourage wardens and responsible anglers to watch marinas and popular fishing areas for people who take live fish from the water, transport them in a vehicle, and then stock them somewhere else. Citizens can report observations of live fish transfers using the TIP-MONT program.

\* Anglers do not need to transport live fish. The time-honored tradition of cleaning fish in the field and putting them on ice for the trip home serves anglers well.

\* Some walleye fishermen say they have to take fish home live, claiming that the skin on a dead walleye gives off a "mucous" that makes the fish inedible. These anglers have live wells in their power boats designed to keep live fish. Some walleye fishermen also claim that keeping fish fresh in the field is hard, and that cleaning fish at lakes can create health hazards. But they're wrong:

1. The overwhelming majority of walleye fishermen in this country do not transport their fish live. Most do not have power boats with live wells. Walleye fishing has occurred for generations with anglers killing and filleting fish in the field. One common method of keeping fish from spoiling is to pack plenty of ice in boats and campers.

2. If the flesh is indeed inedible -- a claim disputed by many walleye anglers -- then Montana can change the regulations that require skin be left on walleyes for identification. For example, the rule could be changed to require anglers to leave only a square-inch patch of skin for identification. A patch that small shouldn't affect taste, and it would be large enough for wardens to identify the species.

3. Trout, bass and perch anglers also need to keep fish from spoiling, but for generations they have gotten by without transporting live fish. They also clean their fish in the field, a practice that has produced no health hazards at Montana's lakes and streams.

HB 375 will not harm private property rights or cost the state money. In fact, it will save Montana money by protecting economically important fisheries. Support HB 375!

----- prepared by the Montana Council of Trout Unlimited -----



EXHIBIT 14  
DATE February 7, 1995  
HB 375

HB 375

Fishing Outfitters Association of Montana  
Post Office Box 67  
Gallatin Gateway, Montana 59730  
(406) 763-4761

To us, the issue here is health . . . health of the fish in Montana's streams, lakes, and reservoirs, and, consequently, the health of the recreational fishing industry.

A vigorous fish population is the basic ingredient of a fisheries resource. Healthy fish need some fundamentals like sufficient food, clean water, a disease-free environment and controlled predation. Three of these basics can be affected by moving live fish from place to place - food, predation, and disease.

Most streams set a balance between local species and the food supply. Add one or two new species to the drainage, let them take hold, and the established food chain is broken, sometimes forever. The same goes for predators - small and young fish can survive only so much chasing and predation before the population suffers. Add an aggressive new species to the area, and the chances of survival go down quickly. These two basics of survival are obvious enough - move some new fish into the area and healthy populations may suffer.

However, FOAM is currently more concerned that moving live fish will increase the chance of spreading disease. FWP has monitored Montana's waters for fish diseases all along and used a variety of techniques to treat disease. Occasionally, a quarantine is employed to keep a disease, once found, from spreading. The physical nature of a lake or reservoir can usually keep a fish disease within its own population. Streams are another story, but even there, migration can be limited and disease checked with common precautions. But, if someone moves a sick fish from one stream, lake, or reservoir to another, these physical barriers are thwarted, and the disease is free to spread unchecked.

Additionally, when new species are introduced into some waters, they can throw off the baseline data needed to do good research on disease. And remember, disease is not limited to coldwater fisheries, typically, the drainages we use. The same goes for warmwater species elsewhere. All anglers stand to lose if, through inadvertence or intent, fish that may carry disease are moved from place to place.

Since recreational angling, including the fishing outfitting and guiding industry, represents an income of approximately \$250 million to Montana, disease is no small matter. Can we really stand by and allow the possible spread of any disease, much less the newly reported Whirling Disease, from drainage to drainage? Can we ignore the possible consequences to the economy of Montana? FOAM doesn't think so. The sacrifice required to keep both the state's fisheries and recreation economy healthy seems small in comparison to the potential problems we may face if we don't. One more thing - even though we are guides and outfitters, we were and are, at heart, anglers. Money doesn't mean much if we can't fish, too.

We urge this committee to concur in HB 375.

ROBIN CUNNINGHAM



HB 375

EXHIBIT 15  
DATE February 7, 1995  
HB 375

Testimony on behalf of the  
Montana Chapter of the American Fisheries Society  
before the  
House Fish and Game Committee

February 2, 1995

Mr. Chairman and members of the committee, my name is Art Whitney and I am here on behalf of the Montana Chapter of the American Fisheries Society. The American Fisheries Society is an international organization of fisheries and aquatic professionals that promote the wise use and management of fisheries and aquatic habitat. AFS is the oldest professional society in the United States and the Montana Chapter has about 150 active members.

The Montana Chapter supports House Bill 375. This bill amends present law by prohibiting the possession and transportation of certain live fish away from the body of water in which the fish were taken. This legislation provides an additional tool in the fight against what is known as "bucket biology". Bucket biology, or the illegal introduction of fish, has now been documented in over 160 bodies of water in Montana.

Illegal introductions of fish can cause ecological disasters that can result in increased license fees and lost fishing opportunities. One only has to look at the carp to understand what damaging impacts exotic fish introductions can have on aquatic ecosystems. Another concern is the potential damaging effects of diseases that can be introduced to state waters through the illegal transport of live fish. House Bill 375 will make it more difficult for misguided persons to undertake the illegal practice of bucket biology and will improve Montana's ability to adequately enforce against this harmful practice.

The Montana Chapter of the American Fisheries Society requests your support of HB 375. Thank you.

**MITSI**  
**corporation**

A COMMUNICATIONS MANAGEMENT COMPANY

(406) 443-3797

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EXHIBIT 16  
DATE February 7, 1995  
HB 375

**TESTIMONY**

before

EXHIBIT \_\_\_\_\_  
DATE \_\_\_\_\_  
HB \_\_\_\_\_

**FISH & GAME COMMITTEE  
MONTANA HOUSE OF REPRESENTATIVES  
February 7, 1995**

**Presented by  
Riley Johnson**

on behalf of

**WALLEYES UNLIMITED/MONTANA CHAPTER**

Mr. Chairman and members of the committee:

My name is Riley Johnson and I rise before you today on behalf of Walleyes Unlimited/Montana Chapter in opposition to HB 375. This bill would prohibit the possession and transportation of live fish away from the body of water in which they were taken. We have all come to know this bill as the live well bill, because it is specifically aimed at the thousands of Montana fishermen who currently utilize aerated live wells in their boats to legally transport game fish from Montana lakes to their homes, thereby insuring a fresher catch and preparation of the fish. Specifically, however, it should be noted that live wells are primarily used by walleye fishermen for reasons that other opponents here today will explain.

My first point this afternoon is to set the record straight as to the purpose of this bill. HB 375 is aimed at curbing the illegal introduction of fish into so-called foreign waters; i.e., introducing perch into Lake Mary Ronan, or northern pike into Georgetown Lake. Please understand that Walleyes Unlimited whole-heartedly supports this effort. As sportsmen and women, we too want to curb this illegal transplanting of fish. No single group has worked harder at achieving the goal of putting a stop to illegal transplanting than Walleyes Unlimited.

My second point is to separate this illegal transplanting problem from what many are saying is the real issue, and that is to attach the causes of the newly discovered whirling disease that is crippling the Madison River. There is not a shred of practical or scientific evidence that live wells have, or could, cause the dreaded whirling disease epidemic. Whirling disease is currently thought to be a hatchery-bound disease. Consequently, you might ask, why does not a bill that addresses the transportation of live fish not cut to the heart of whirling disease? Because HB 375 does not address the transportation of live fish from hatcheries, minnow buckets or what many believe is the most likely cause of the Madison River epidemic -- farm ponds. HB 375 is specifically aimed

at the use of live wells. Using a live well to illegally transport trout to the Madison River is not only impractical, but it could be liken to shipping coal to New Castle.

Whirling disease is an easily communicated sound bite, but I submit to you it is mis-guided and a fear tactic when all the evidence is considered. Even this bill's sponsor, Rep. Hal Harper, in a television interview on HB 375 on January 5, did not mention live well transportation as a possible cause of the Madison River whirling disease problem. In that interview, he openly admitted that the flooding and overflow of farm ponds was a likely source of the disease, and as I said earlier, farm ponds are not addressed in HB 375. I guess you could say that live wells could be used to stock farm ponds, but then so could they be stocked from hatcheries. In fact, nearly all farm ponds are stocked from hatcheries. Does HB 375 prohibit transportation of live fish from hatcheries? I submit it does not, and I might add here that most hatcheries currently are not even required to check for whirling disease within their stock of fish.

So, let's take whirling disease off the table here this afternoon while we consider HB 375, and let's stick to the real issue -- the use of live wells and their relationship to the illegal transplanting of fish into foreign waters.

You will hear from opponents this afternoon six major points that discredit HB 375 and its attempt to combat the real issue.

First, will be the loopholes embodied in HB 375; loopholes that existed in the 1993 "live well" bill that FW&Ps has had two-years to correct and has not.

Second, will be the total lack of practical and scientific research that live well users in Montana are a major contributor to illegal transplanting of fish; research that FW&Ps has had two years to produce and has not.

Third, will be the reluctance of FW&Ps to address the big picture of the causes of illegal transplanting, such as regulations on minnows, bucket brigades, farm ponds and hatcheries.

Fourth, will be the failure of FW&Ps to work with an enthusiastic and willing partner in the illegal transplanting of fish -- the walleye fishermen of Montana.

Fifth, will be the unwarranted focus on a specific segment of Montana sportsmen and women that are utilizing a practical and legal tool to enhance the enjoyment of their sport.

And, sixth, will be the resounding chorus of willing voices to work with FW&Ps to help eradicate the illegal transplanting of fish.

HB 375, I submit, is poorly written legislation, unchanged from 1993 when it was killed for similar inadequacies and the lack of the FW&P Division to address the whole problem instead of arbitrarily selecting one segment of the sportfishing population as the culprit, and merely throwing mud at the wall to see what might stick.

I ask that you listen carefully to the other side of this debate, and in the end I hope you will agree with me that HB 375 should be rejected, with the directive that all parties in this issue go back to the drawing table and address the whole issue of illegal transplanting of fish.

Thank you for your time and consideration.

DALE GILBERT TESTIMONY

21  $\frac{1}{2}$ " 3# 1003

Walleye caught 2/5/95 10:00 AM

Filletted 2/6/95 @ 7:00 PM.

Kept in a ~~box~~ cooler all day  
2/5/95 till 6:15 PM. then  
kept alive with an aerator in  
the cooler until filleting on the  
6th.

- 1). Proposed legislation would have  
required filleting in the dark, at  
the access site on the river.
- 2). Livewell bill will not prevent  
illegal transplants only make  
criminals out of truly innocent  
people.

Dale R. Gilbert.



# Fish Tales Magazine

Don Groven, Managing Editor  
Box 27  
Havre, MT 59501-0027



3-3-95

EXHIBIT 18

DATE February 7, 1995

HB 375

Rep. Doug Wagner  
Capitol Building  
Helena, MT 59620

Rep. Wagner;

This is just a brief note to express Walleyes Unlimited and my utmost thanks for postponing the hearing on HB 375 until Tuesday February 7.

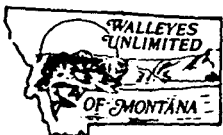
This will allow my organization a chance to get the State convention over with as well as another opportunity to meet with Mr. Peterman of the F.W.P.

Again, thank-you. We truly appreciate your fairness and cooperation.

Sincerely

Don E Groven

Pres. Walleyes Unlimited of MT.



"The Future of Fishing Is In Our Hands"



# Hunsley Lands State Record Sauger

By Jim Liebelt

A new state record sauger weighing 8.28 pounds was caught by Roger Hunsley of Wolf Point on May 25 in Fort Peck Reservoir. The previous record was a seven

pound 13 ounce fish caught also in Fort Peck during 1992.

The new record fish was 28.5 inches long and had a girth of 15.5 inches. Hunsley

was using a Spin-N-Glo lure tipped with a nightcrawler and was fishing at a depth of 10 to 15 feet.

Several sauger of over nine pounds were captured this spring in trap-nets by Fish, Wildlife and Parks fishery personnel during the annual walleye egg-taking operation in Fort Peck. Fisheries manager Bill Wiedenheft said, "We had one sauger or possibly a saugeye, that weighed close to 11 pounds and another one over 12 pounds was reported caught while netting for paddlefish in the upper end of the reservoir."

Byway of comparison, North Dakota's present record sauger weighed eight pounds 12 ounces and was caught in 1971 from Lake Sakakawea. This fish is also recognized as the current world record. Wiedenheft indicated that if a sauger is brought in that is larger than the present world record, some attempt will be made, probably through genetic testing, to ensure the fish is a true sauger and not a saugeye.

## Illegal...

Continued from page 14

port any live game fish in the state, except those legally taken, even if that species is already present in Montana.

In addition, live carp, goldfish, all species of sunfish and bullheads, yellow perch, and rainbow smelt may not be used as live bait anywhere in the state. Other live fish, except sculpins, may not be used as bait except as permitted in the Central and Eastern fishing districts.

Johnson said anglers and others can help preserve Montana's renowned fisheries by reporting any suspected illegal introductions to their nearest game warden or FW&P office, or by calling the state's fish and wildlife law violation hot-line: 1-800-TIP-MONT.

### EDITOR'S NOTE:

It is important for sportsman to help protect our fisheries and our environment. Carry a small notebook and pen. If you see illegal activities, write down license number and descriptions, and then call 1-800-TIP-MONT., and report what you saw. It's not squealing when you turn in law breakers - it's being a good citizen. To maintain and improve our recreational opportunities, we need a lot of good citizens.

Also, more attention must be directed toward beefing up enforcement capabilities and convincing the legislature to toughen up laws governing the sale of live fish to the public from private hatcheries and fish farms.

Remember, 1-800-TIP-MONT. Let's stamp out Bucket Biology.



Roger Hunsley's State Record Sauger

## Illegal Introductions Damage State Fisheries Programs

Some anglers continue to spread unwanted fish species, either accidentally or on purpose, in waters across the state. To the consternation of state fisheries managers, the damage caused by the unplanned introduction of fish species and other aquatic organisms is, in most cases, irreparable or extremely expensive to correct.

According to Howard Johnson, chief of the Management Bureau for the Department of Fish, Wildlife and Parks' Fisheries Division in Helena, some of the potential effects of illegal or unplanned introductions include:

- introduced fish may increase competition with native or already established species for food and space;
- they may grow and multiply at different rates in a new habitat resulting in a poor to mediocre fishery;
- they may hybridize with established species resulting in sterility of the offspring or eventual elimination of the original pure strain of fish;
- they may carry and spread new diseases and parasites;
- they may alter the existing habitat to the detriment of established species.

"In the end," Johnson explained, "in-

troduced fish may actually decrease fishing opportunities and increase costs for anglers if they require fish managers to increase stocking of desirable fish or rehabilitate waters to restore a fishery."

Montana currently has several laws on its books to prevent unauthorized introductions of fish and other aquatic invertebrates to the state's aquatic environments. These include a law which prohibits the importation, introduction, or transplantation of live fish into Montana or from one Montana water into another. It is also unlawful for any person to possess or trans-

Continued on page 29

Your refreshing s  
& up-to-date fishing r  
"Let Dennis Tel  
Vet's C  
Wheat Sh  
Chest  
759-7

## Please Remember

*"We have not inherited the earth from our ancestors,  
We are simply borrowing it from our children."*

Ancient Proverb



### Future Fisherman Code

- **I Always Practice Safe Fishing.** I am careful when casting. I handle all fish hooks carefully. I wear a life jacket when I am in a boat or when I am near deep or running water.
- **I Am A Courtesous Fisherman.** I don't litter. I pick up all extra line, leftover bait, candy wrappers and other trash. I don't get too close to someone else who is fishing.
- **I Obey Fishing Laws.** I have a fishing license when required. I know the size, kind, and number of fish I'm allowed to keep.
- **I Respect The Outdoors.** I observe but do not disturb other wildlife that live around the water. I release fish right away if I don't plan to eat them.
- **I Invite My Friends To Go Fishing With Me, And Help Others Learn To Fish.**



*Photos from Governor's Cup Youth Fishing Derby*

### Protect Montana's Fisheries Report

- **Illegal Introductions**
- **Pollution and Spills**
- **Over Limits**

*Help Montana  
Save Our Wildlife Heritage*

**1-800-TIP-MONTANA  
1-800-847-6668**



# W.U. Helps

EXHIBIT 18A

DATE 2-7-95

HB 375

Some of your fisherman's rights were up for grabs in Helena this legislative session. A bill to make it illegal to transport your fish alive in your livewell was proposed by Representative Al Harper. HB 341 was designed to deal with the serious problems of illegal fish transplants. Though the reasons for the bill are admirable the bill itself was very poorly conceived.

No thought was given to Walleye fishermen who regularly transport their fish home alive so they can conveniently fillet their fish. No one looked at the conveniences of a livewell to transport fish home after dark or in the cold or the convenience of being able to transport a trophy to a taxidermist in top condition.

Walleyes Unlimited was shocked that the FWP who was actually behind the bill put no thought in that it is currently illegal to fillet fish at the water site.

No one considered the mess that would occur because many of our fishing areas don't have fish cleaning stations, nor even garbage cans.

The worst thing about the bill was that there was no evidence that this would help solve the problem of illegal introductions. Under the proposed bill no funds were added for increasing staff in order to watch offenders nor was stronger punishment added to curtail potential wrong doers. HB 341 was one of those bills that would punish the honest fisherman and do little to stop the dishonest one.

Walleyes Unlimited took a strong stand against this ill conceived bill and after much effort by many of our members we were able to table it in the senate.

It is important to realize that we were only able to accomplish this because we have a strong growing membership which made it financially possible to hire a lobbyist to carry our concerns to the legislators.

We were also very fortunate to hire Riley Johnson, an excellent lobbyist from Helena. Riley was tremendous to work with. He went beyond the call of duty to get the job done.

With our success in tabling this bill I hope that you can realize that Walleyes Unlimited is working for you and your rights.

Walleyes Unlimited also played a part in restoring the 20 FWP jobs.

Much thanks goes to all those members who wrote or called their legislators. A special thanks to Jake Tuck, Dale Gilbert, John Lamb and Glenn Briese who all took time off to help make the difference.

**Editors Note:** HB 341 was a bad bill, but we must not forget that the reason it was proposed was a good one. We must stop illegal introductions. Walleyes Unlimited

is hoping that together with other sportsmans groups and the FWP we can develop a watch group that will help keep an eye on those who may try bucket biology. We also

need to continue to contribute to the reward program, Tip-Mont. As sportsmen it's time to get involved and help protect our resources.



*Bruce Beecher with  
a 10 lb. Northern*



*A bearded Jerry Ida with dinner!*



*Jesse Johnson of Havre with an 11 lb.  
10 Oz. Milk River "Eye".*

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Havre, Montana





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**July 1993**



# FISH TALES

## Fishing Montana

- **Wolf Point Angler Bill Dassinger** with a closer look at those record breaking Fort Peck Sauger.
- **Updating Montana's 1993 Warm Water Fish Plants**



## In This Issue

- **Joe R. Ellis - Dancing With Walleyes**
- **Gary Parsons & Keith Kavacjcz Pro Tips**
- **Cormorants, White Pelicans & Kids**
- **Marina Ellis - Honey there's a snake in the boat**
- **Tips from the Pike Ferret**
- **Ralph Brunners Walleye Magic**
- **Ron Boggs Floating Rigs**

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# Bucket Biology Strikes Again

**Editor's Note** - I have always felt that one of our most important obligations as an organization is to help prevent illegal introductions.

I was very disheartened by the State Walleye Unlimited board of directors when they turned down my request for \$500.00 to \$750.00 to help support the TIP-MONT reward program which encourages reporting of illegal introductions. Last year the first arrest for illegal introduction was made because of this program which was funded in part by Bass Masters, Trout Unlimited, and Walleyes Unlimited. Its funny that with this problem still raging we would so quickly change our priorities. I hope you as members will encourage our board to again help solve this big problem.

Thanks to Larry Peterman of the FWP and Mark Henckel of the Gazette for making us aware of this new problem.

Don Groven

## Bighorn Lake striper caught

By Mark Henckel

Gazette Outdoor Editor

Powell, Wyo., fisherman Kent Stingley made a surprise catch last month from the waters of Bighorn Lake near

Barry's Landing.

While fishing for largemouth or smallmouth bass with a tube lure, he caught a striped bass instead.

It wasn't exactly a tiny or malnourished striped bass, either. It was 19 inches long, 13 1/4 inches in girth and weighed 3.73 pounds.

The amazing thing about Stingley's catch is that striped bass aren't supposed to exist in Bighorn Lake.

They didn't inhabit the Bighorn River before Yellowtail Dam was closed. The Montana Department of Fish, Wildlife and Parks didn't stock them in its end of the reservoir. The Wyoming Game and Fish Department didn't introduce them in its end, either.

"It looks to me like it had to be someone stocking the fish on their own," said Ken Frazer, fisheries biologist for the Department of Fish, Wildlife and Parks in Billings.

"They must have figured that they can be a better biologist than the biologists," he said.

The discovery of striped bass in the lake didn't thrill biologists on either side of the border.

"Striped bass could be a real serious problem. If they got going," Frazer said. "In most places where they've tried stocking them in reservoirs, they eat all the forage, then they eat all the game fish, then they crash. They grow big and they live for a long time."

He said the matter should be a real concern for walleye fishermen who have watched the lake improve over the years.

"I'm sure the walleye fishermen won't be happy having a top predator over the top of their walleyes in Bighorn Lake," Frazer said. "It's a predator that could wipe out the walleye fishery we've worked hard to establish."

Frazer said he could only speculate on where the striped bass might have come from.

"The closest source would be either Idaho, Colorado, or Nebraska," he said. "I talked to Wyoming this morning and they did some checking on the minnow stores to see if it could have come in that way. One guy who imports minnows does get some of them from Arkansas, but supposedly there's no chance of getting stripers."

Continued on page 20

## Bucket Biology...

Continued from page 38

Frazer, said that both Montana and Wyoming would be looking at the lake in the weeks ahead to try to get a fix on how many stripers might be present.

"Wyoming is going to go down and do some serious sampling and we're going to do some in October," he said. "We'll see if, we can find more, but it's a lot like trying to find a needle in a haystack."

Only time will tell whether or not there are enough stripers to get a foothold in the lake and whether or not they'll be able to spawn.

"It depends on how many of them are in there," he said. "If somebody went to the effort of planting them, they probably hauled up a pile of them."

Frazer said the Bighorn Lake striper is just the latest in a sad history of illegal introductions that threaten the fishing in Montana.

Illegal northern pike introductions wiped out many good trout lakes west of the Continental Divide over the past 20 years.

More recently, so-called bucket bi-

ologists have introduced walleyes into Canyon Ferry Reservoir and are threatening to do great harm to the rainbow trout fishery there.

"There are reasons for certain fish in certain areas," Frazer said. "We do a lot of research before we make any moves ourselves. Yet these guys think they can move fish anywhere they want."

"It's illegal to move fish around and I hope that anyone who has any information on the striped bass in Bighorn Lake would give us a call. They can call our TIP-MONT number."

Frazer also hoped that anyone else who catches a striped bass in Bighorn Lake would notify the department by calling 252-4654.

"We would love to hear any news on them. We also would like some scales so we can age the fish. The one caught already looks to be about two to three years old," he said.

## Circumstantial...

EXHIBIT 18A  
DATE 2-7-95  
HB 375

CT 1993

# Bucket Biology

**EDITOR'S NOTE:** In an attempt to inform the public of the damage that can be done when fisherman take planting into their own hands, the Montana Department of Fish, Wildlife and Parks provided us with the following article.

## BUCKET BIOLOGY

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

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

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

only stunted 4' perch remain.

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

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

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

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

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

- competition for food and space with existing fish;
- interbreeding or disruption of spawning with existing fish;

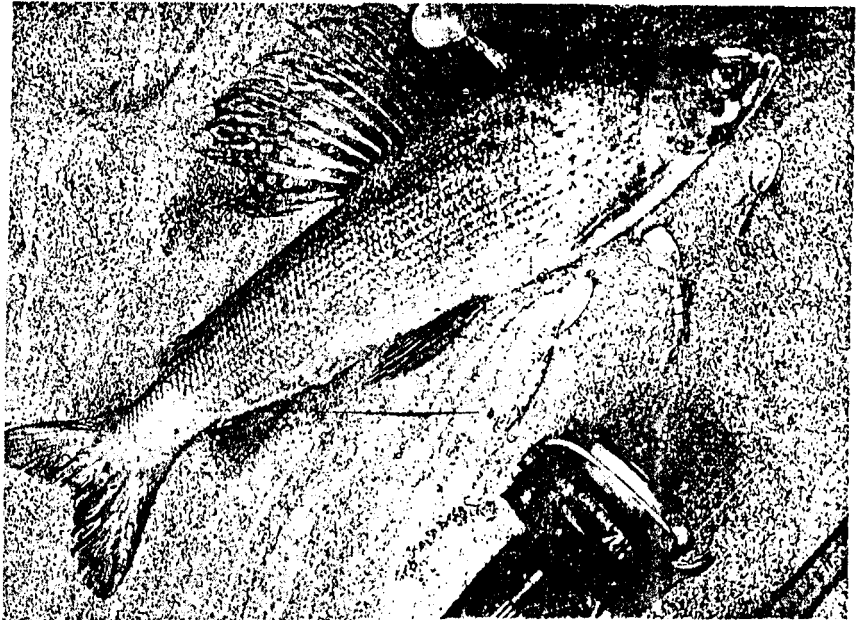
- introduction of new diseases and parasites;
- alteration of aquatic habitat, and;
- less fishing opportunity and higher management costs for anglers.

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

Because of all the potential problems, environmental assessments, or impact statements, are now required for all planned introductions. Factors examined include biological and social impacts, access, and economics. Those with little patience and a bucket can bypass the whole process -- hence the term "bucket biology". Ironically, these so called "bucket biologies" also hurt themselves. Fish biologists contemplating the introduction of new species to satisfy public demand have to face the certainty that the fish will venture beyond the point of which they're planted. If the potential impacts are great enough, biologists have to decide against the introduction and anglers are denied new opportunities.

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

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



contaminated 640 miles of the Clark Fork, Bitterroot, and Blackfoot rivers. Walleye, northern pike, and smallmouth bass have all recently appeared illegally and the long-term impacts on this troubled system are unknown at this time.

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

Northern pike were first illegally planted in western Montana in 1953 and have since spread to 61 waters in every drainage west of the Divide. Although

pearance of bass, trout, and yellow perch when placed in the wrong waters. Pike made their most recent appearance in the upper Clearwater River drainage.

#### CENTRAL FISHING DISTRICT

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

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

Around 1960, Duck Lake north of Browning was regarded as one of the premier rainbow trout lakes in the nation. Suckers, probably introduced illegally as bait, infested the lake and soon accounted for 90 percent of the fish biomass. Trout

February 7, 1995

TESTIMONY ON HB 375

For the record I am Fred Easy and I live at 1735 Jerome Place, Helena MT. I am presenting testimony on behalf of myself, and at the request of the President of the Helena Chapter of Walleyes Unlimited. We are convinced that passage of HB 375 would be a grave error.

Thousands of Montana fishermen and women have live wells in their boats and do not use them illegally. This bill will unnecessarily penalize boat owners and fishermen for the sins of the few, unethical persons who have illegally transplanted fish. As responsible sportsmen and women we have tried to do the right thing and we condemn "bucket biology." I don't transplant fish and neither do tens of thousands of people like me.

Certainly illegal transplants are a problem. On the other hand I'm also sure that thousands of times live fish have been transported to homes in buckets for cleaning and processing by responsible sportsmen and women like me.

The rationale of this bill is that there is a presumption of guilt everytime one of our members pull their boat out of the lake with live fish in it. They are presumed guilty of an intent to transplant fish. The fact is we take fish home in live wells to clean them due to bad weather conditions, late night conditions, swarms of biting bugs, and the absence of fish cleaning facilities at the lake! Furthermore, cleaning and processing fish at home allows them to be more properly preserved for consumption.

HB 375 will make many of our responsible sportsmen and women criminals. It is not necessary for the legislature to penalize us for the irresponsible actions of an unethical few. We don't need the government to ban all transportation of live fish simply because there is a fear that someone will violate the law prohibiting the transplanting of fish.

The height of unfairness is to criticize me or thousands of sportsmen and women like me because a few bad apples break fish and game laws. This bill would be bad law. Our last legislature had the good sense to kill this bill and so should you. I don't want the government declaring something else illegal! I urge you to oppose this bill.

My Name is Robert Twiford. I'm Representing Myself as a Fisherman, and One Way Marine Inc., as a Fishing Related ~~Business~~ and Recreation Business.

As a fisherman I oppose House Bill 375. Various conditions such as weather, Darkness, and lack of fish cleaning facilities at our Montana lakes, make it impossible to take care of fish before leaving lakes, streams & Reservoirs all the time. I have brought fish home to clean & prepare for consumption, alive, many times without ever transplanting them to another body of water. I'm sure the majority of our fisherman & women in Montana are doing the same. I'm sorry that a few are not, but why penalize me?

~~As a Businessman~~ From a business standpoint this Bill is creating confusion with the fishing public that can indirectly hurt boat sales, as it did 2 yrs ago when a similar bill was introduced. <sup>we are against it</sup> Introductions.

We feel that the way to stop ~~if~~ illegal introductions is more law enforcement - stricter penalties, & better fish cleaning stations & disposal facilities for the remains.

I've heard <sup>by Fish Wildlife & Parks Director</sup> of 200 illegal plants but only one person caught. I'm sure not every illegal plant was done in broad daylight like at Lake Mary Ronan. Is this bill going to stop illegal introductions without more law enforcement I can't see how.

Thank you  
Robert Twiford

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

FISH & GAME COMMITTEE DATE FEBRUARY 7, 1995  
BILL NO. SJR 5 SPONSOR(S) SWYSGOOD, OHS, TASH

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Matthew Cohen	Dept of Commerce	✓	
JOHN NOYES WHITEHALL	VIRGINIA CITY PRESERVATION ALLIANCE	✓	
JOHN DELLINGSEN	Virginia City Preservation Alliance	✓	
Maude Sheffy	MT Hist. Society	✓	
Gaye L. Rossow	Virginia City Preservation Alliance	✓	
Marilee Tucker	Virginia City Preservation Alliance	✓	
ROLLIE ARMSTRONG	WALLEYES UN LIMITED		✓
Pat Graham	FWP	✓	
<del>Fred EASY</del>	<del>WALLEYES UN LIMITED</del>		X
Linda Reif	Gov's office	✓	
Linda Hamilton	Town of Virginia City	✓	
Shirley Thompson	MT Cultural Economy	✓	
Tony Schoonen	myself	✓	

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

HR:1993

wp:visbcom.man

CS-14

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

FISH & GAME COMMITTEE DATE FEB 7, 1995  
BILL NO. SJR 5 SPONSOR(S) SWYSGOOD, OHS, TASH

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Kathy Macfield	MT Preservation Alliance	X	
Bud Solmonsson			

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

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CS-14



HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

FISH & GAME COMMITTEE DATE FEB 7, 1995  
BILL NO. 391 SPONSOR(S) DEBRUYCKER

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<i>DeLoach Perry H Bente</i>	<i>self</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Sam A Perry Jr Bente</i>	<i>self</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Sam Perry</i>	<i>self</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>FWP Graham</i>	<i>FWP</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>J. E. Youngberg</i>	<i>MEBF</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

HR:1993

wp:visbcom.man

CS-14

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE FEB 7, 1995

BILL NO. HB 339 SPONSOR(S) MOLNAR, MCGEE, MILLS

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Chris Melus 420 N. California <sup>Helen</sup>	MIT Stockgrowers		✓
Jean Johnson	MIT Deer Hunters & Guides		✓
Pat Grohn	FWP		✓
Paul Reed	Paul Reed Outfitters		✓
Harold Becking	FNAAWS		✓
Mike McGary			
Edo Haysellenschner	FNAAWS		✓

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

HR:1993

wp:visbcom.man

CS-14

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE FEB 7, 1995

BILL NO. 375 SPONSOR(S) HARPER, SLITER, SIMON, MENAHAN, HARP  
WELLS, RANEY, SWANSON, KNOX, EWER, HERRON, MERCER, BARNHART, BROWN  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
FISHING OUTFITTERS CUNNINGHAM ASSOCIATION OF MONTANA →		X	
Bill Allen	MT Audubon	X	
BILL HOLPORK	SKYLINE SPORTSMEN	✓	
Tony Schoonen	Guidi Service Skyline Sportsmen	✓	
Tom Buchi	Self Tom's Guide Service	✓	
Tony Schoonen Jr.	Blue Ribbon Guide Service	✓	
Bruce Farling	MT. TROUT Unlimited	✓	
EARL DORSEY	PAT BARNES/MISSOURI RIVER TR	✓	
Walt Whitney	MT Chapter, American Fishermen's Society	✓	
GEORGE OCHENSKI	TROUT UNLIMITED	✓	
Stan Bradshaw	Self	✓	
Steve Gilbert	Self	✓	
TIM PLASKA	MISSOURI RIVER EXPEDITIONS	✓	

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

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Stan Frieser	Montana Wildlife Fed	X	
Paul Reos	Cross Currents Paul Reos Outfitters	X	
Pat Grady	FWP	✓	
Fred Easg	Helena Walleyes Unlimited		X
Robert Twiford	One Way Marine Inc		X
Riley Johnson	Walleyes Unlimited		X
John E. Lamb	Walleyes Unlimited		X
John Lamb	Walleyes Unlimited		X
Mike McNelly	Self	X	
Rollie Arnstad	Walleyes Unlimited		X
Jim Anderson	Walleyes Unlimited		X

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