

MINUTES

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

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN DOUG WAGNER**, on February 14, 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: HB 433, HB 262, HB 486, HB 451, HB 464
Executive Action: HB 433 DO PASS
HB 464 DO PASS AS AMENDED

Note: Stan Frasier, citizen, videotaped the meeting.

{Tape: 1; Side: A; Approx. Counter: 000; Comments: N/A.}

HEARING ON HB 433

Opening Statement by Sponsor:

REP. ED GRADY, House District 55, Canyon Creek had received many requests for setting up a hunting program for Montana's youth. Youth hunting has become popular and many other states have special programs set up for youth. HB 433 granted the Fish, Wildlife and Parks Commission rulemaking authority to designate special licenses or permits, seasons, and programs for Montana's hunting youth. Regulations should not be entirely designated through statutes. He stated proponents were present to testify on behalf of the bill.

Proponents' Testimony:

Jean Johnson, Montana Outfitter and Guides Association (MOGA), said HB 433 was a timely bill and was a desirable direction to progress regarding youth hunting. MOGA initiated a mentor program that connected young hunters with outfitters. She urged the committee to pass HB 433.

Jim Richard, Montana Wildlife Federation, maintained the organization has always supported programs for the youth. The future of hunting rested with Montana's youth. He expressed support for the bill.

Pat Graham, Director, Department of Fish, Wildlife and Parks (FWP), remarked that hunting traditions have been passed down from generation to generation among Montana families. FWP had received considerable interest expressed by many organizations in the development of a hunting program for youth. HB 433 provided the Fish and Game Commission the authority to establish guidelines for youth hunting. He encouraged the committee to pass the bill. **EXHIBIT 1**

Bill Holdorf, Skyline Sportsmen Association, spoke in favor of HB 433. He had been a hunter education instructor for 27 years and had certified over 1,000 young people. Many of the students had little actual experience hunting. The proposed program in HB 433 could further a young person's education upon leaving the hunter education course.

Tony Schoonen, Anaconda Sportsmen Association, testified in support of HB 433. Any time hunter education was provided, it protected part of Montana's heritage and countered anti-hunting sentiments.

Sam Babich, Skyline Sportsmen Association, expressed their support of the bill. He agreed that young people should be educated to preserve some of Montana's longstanding traditions.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. DAN FUCHS asked REP GRADY about the definition of "youth" in the bill. REP. GRADY said the Fish and Game Commission would research the methods and programs used by other states. He presumed the definition of youth would range from the time a young person took hunter's safety to 15 years of age. REP. GRADY did not want to set the guidelines in statute but rather allow the Fish and Game Commission to determine them.

EXECUTIVE ACTION ON HB 433

Motion/Vote: REP. BOB PAVLOVICH MOVED HB 433 DO PASS. Motion carried unanimously.

HEARING ON HB 262Opening Statement by Sponsor:

REP. WILLIAM "RED" MENAHAN, House District 57, Anaconda, stated he brought forth HB 262 to establish a buffalo disease control license. Approximately 10% of the wild buffalo disease control licenses would be awarded to Native Americans. FWP would be allowed to adopt rules regulating the licenses. Recently, about 300 bison were slaughtered. If hunters had an opportunity to hunt them, it could have provided FWP with about \$60,000. Amendments were provided in consideration of the governor's goals and his role in this particular issue. Discussion took place with people at Yellowstone Park regarding where possible hunting sites could be established. HB 262 intended to establish a "true hunt."

Proponents' Testimony:

Dan Sellers, citizen, said he favored portions of the bill and presented a written statement. Recently, over 300 buffalo were killed and "were taken away from the sportsmen of Montana." Most of them had been given to Native Americans. If the bison had been auctioned, they could have been sold for approximately \$500 per head. It was a major loss of revenue for the state. He urged the committee to pass the bill and presented a few changes. Montana citizens have a right to harvest bison. Having a bison hunt would allow people to take part in Montana's heritage. Hunters would help reduce costs to the state if allowed to help control bison herds. He felt that if bison were given to native americans, other Montana citizens should have the same privilege or everyone should have to pay for the bison with no exceptions. Another proposed change was eliminating the excessive license

fees. He wanted to protect hunters' rights but keep it affordable. **Mr. Sellers** also presented an newspaper article regarding a buffalo hunt. **EXHIBIT 2 AND 2A**

Jeanne-Marie Souvigney, Greater Yellowstone Coalition, offered their support of the bill. They had consistently supported hunting as a legitimate method of controlling wild animal populations but had mixed feelings about the bill. She emphasized the bill was not intended to control disease. The animals were not going to be tested first; HB 262 simply provided for a reduction in their number. She remarked the challenge would be to craft a hunting opportunity that reflected good hunting ethics. The best place for it to occur was on the forested public lands around the park. **EXHIBIT 3**

SEN. JIM BURNETT, Senate District 12, Luther, said he was a co-sponsor of the bill. It was not intended to be a disease control bill but population control bill. He spoke about the difference between disease and population control and how brucellosis affected animals. The bison population had grown very large and there were problems regarding lack of food. Through his experience and study, he believed "bison and wild animals have a tendency to immunize themselves." In discussions with Governor Racicot, he suggested bison could be rounded up to be tested. **SEN. BURNETT** challenged anyone to corral wild buffalo. Buffalo were a game animal and should be harvested as any other wild animal.

Jim Richard, Montana Wildlife Federation, said that HB 262 was not a final solution. The final solution would involve creativity, extraordinary measures, cooperation, and time. Sport hunting should be the main population control measure. A hunt should involve a fair chase and good hunter ethics. He urged passage of the bill.

Lisa Morris, citizen, believed that Native American tribes have no special rights over buffalo. All Montanans should be allowed to have the meat and be involved in the hunt.

Bill Holdorf, Skyline Sportsmen Association favored HB 262. The prior hunt was successful in reducing numbers but it met with public objection. This year, over 300 buffalo had been killed by the FWP and no protests arose. He stated that brucellosis had never contaminated a cow except in captivity. Brucellosis was brought to the United States from Europe and later to Montana by the cattle herds in the 1800's. He desired that a hunt be established for sportsmen. However, if it was not established, the livestock industry should pay for bison population control.

Roy Morris, citizen believed everyone should have the opportunity to hunt buffalo. It was wrong to allow only Native Americans to obtain the meat.

L.F. Thomas, Anaconda Sportsmen Association, mentioned that committee members should take a poll in their district to determine the number of people who would like to have buffalo hunting. He suspected that there would be a lot of support for the idea.

Stan Frasier, Prickley Pear Sportsmen Association and Ravalli County Fish and Wildlife, expressed support for a fair chase bison hunt. Sportsmen should not be used to control diseases for the Department of Livestock. The disease problem should be handled by the Yellowstone Park Service and Department of Livestock.

Sam Babich, Skyline Sportsmen Association, expressed support for the bill. Hunters were an asset to help control the problem of overpopulation. Allowing hunters to help take care of the problem would free up game wardens time to perform their appropriate duties.

Tony Schoonen, Skyline Sportsmen Association, believed FWP gave in to anti-hunting groups. He was disappointed that FWP would be testifying against the bill and that they did not really represent sportsmen.

Chris Veece, citizen, asked the committee to allow sportsmen to have an opportunity to harvest a buffalo.

Opponents' Testimony:

Chris Mehus, Montana Stockgrowers Association, clarified that they were not opposed to hunting bison under other circumstances. Bison have an enormous impact on the livestock industry around the Yellowstone area. Whether or not the disease could be spread to livestock was a moot point. Because of the intermittent presence of bison outside of Yellowstone Park, Washington, Idaho, North Dakota, South Dakota, Nebraska, and Montana ranchers were required to test their cattle for brucellosis. Montana needed to take a firm stance to force the U.S. Forest Service and National Park Service to handle the situation. HB 262 took away their responsibility and provided only a temporary solution.

Pat Graham, Director, Department of Fish, Wildlife and Parks (FWP), distributed written testimony and amendments. The management of bison that migrate from Yellowstone National Park into Montana was a difficult issue, because the animals do not come under state jurisdiction until they enter Montana. Before they arrive, they belong to the federal government. FWP encouraged federal agencies to work with Montana in developing joint management policies. However, Montana has had to kill the bison leaving the park because they jeopardize the livestock industry. HB 262 would not help Governor Racicot's pending litigation. Public hunting would divert attention away from the federal agencies that were in charge and focus it entirely on the killing of bison by private citizens. The resulting media

spectacle would make it that much easier for the federal agencies to continue ignoring their responsibilities. Montana was under threat of losing its brucellosis-free status. Five states have imposed brucellosis testing requirements on Montana. FWP hoped that someday there would be an opportunity to regulate a bison season that used the same format as the late Gardiner and Gallatin elk seasons. FWP amendments established a public bison herd using surplus bison originating from Yellowstone National Park that were approved for release by the Montana State Veterinarian. The amendment was consistent with the governor's desire to use capture, testing, and quarantine as an alternative to shooting every bison that migrated from the park. **EXHIBIT 4 AND 4A**

CHAIRMAN DOUG WAGNER handed in testimony from **Dale Williams, Montanans For Multiple Use** in support of the bill. **EXHIBIT 5**

REP. BOB REAM, House District 69, Missoula, said it was difficult for him to oppose the bill since he supported the 1987 buffalo hunt bill. By 1991, the bison situation had changed drastically and he sponsored the bill that ended the bison season. It was not due to outside interests. At that time, bison hunting was giving wild game hunting a bad reputation nationwide. He pointed out that the 1987 fiasco was not created by FWP. They should be commended for their accomplishments over the past few years along with the governor's office. The agency that should be condemned is the National Park Service.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: Lost 30 seconds.}

The problem dated back to the 1960's and the policies that came out of that era. He distributed a copy of Montana code 87-1-215. If HB 262 passed, certain sections would need to be amended. Part of subsection (1) was from a 1991 legislative bill and would need to be amended. Subsection (4) strongly urged the National Park Service to manage the herds or face potential court action by Department of FWP and Department of Livestock. He commended the governor's office for having taken that action. That court action should "run its course" before a hunting season was implemented. If hunting was reestablished, it should be a "fair chase hunt." He expressed support for the proposed amendments restricting hunting to public land. **EXHIBIT 6**

Jean Johnson, Montana Outfitter and Guides Association, stated that a "buffalo hunt" was not a real hunt and was not a fair chase. It did not do sport hunting any good. She attended the governor's symposium on hunting in North America when Roger O'Neill was the reporter. He said that "You cannot shoot buffalo and win the anti-hunting war in America." If there was a way to make bison hunting more of a fair chase, they would support it. Until then, they would oppose a bison hunting season.

Questions From Committee Members and Responses:

REP. BILL TASH asked **SEN. BURNETT** if he tested and vaccinated his cattle. **SEN. BURNETT** replied that he vaccinated the females.

REP. TASH said it was state law that cattle be vaccinated for brucellosis. **SEN. BURNETT** stated that he did not know if it was a state law or not. For slaughtering, he obtains a USDA approval to transport any cattle. He does it as a precaution.. Many wild animals can be carriers of disease.

REP. JACK WELLS asked **Pat Graham** about the manner in which bison will be captured, controlled, and contained when trying to develop a public herd. Capturing and testing bison was difficult. **Mr. Graham** deferred the question to the Department of Livestock. The procedure had been successfully accomplished with herds in other states. The largest difficulty experienced was in administering vaccinations. **REP. HAL HARPER** asked **Dan Sellers** for his comments. **Mr. Sellers** strongly encouraged the committee to pass the bill. The situation had not been resolved over the past two years. He believed sportsmen had a right to hunt bison during the interim while bison management policies were being developed.

REP. DICK KNOX said he knew that **SEN. BURNETT** had many years of experience with bison. He asked if the situation involved a "semi-domesticated state." **SEN. BURNETT** said he was correct.

REP. KNOX said it was extremely difficult to corral and control wild bison. He asked if the senator knew of the Moise Range bison program. For many years, bison were corralled annually.

SEN. BURNETT stated that they were still corralled annually. However, until solid fences were built, bison would walk through them despite the fact that they hurt themselves. **REP. KNOX** said he was aware of the bison range history. Given the fact that the Moise Bison Range has been successful for so many years, he asked why it was not possible to manage Yellowstone National Park in the same manner. **SEN. BURNETT** explained the reasons were because the park was enormous and that currently there was over 4,000 bison. The park spans several states. The costs of building a facility to corral and test that many buffalo would be "astronomical." It would not be possible to do that. He believed FWP and the governor were correct in saying that when bison were in the park, they were park property. However, when bison cross park boundaries, they were no longer park property. This same change in jurisdiction occurred with elk. When elk cross the boundaries, they can be managed through hunting.

REP. PAVLOVICH commented that it was hard to believe that the Montana Outfitters and Guides Association opposed the bill. He asked **Jean Johnson** to respond. **Ms. Johnson** said the issue inspired much discussion. Some outfitters felt that they should be able to hunt the bison, while others feared public perception of it. About 80% of Americans do not hunt. At a convention two years ago, graphic pictures were shown of killed wildlife. She said when it was shown over the news, people connect the national

symbol, hunters, and death together. It was not a good situation for hunters.

REP. BOB RANEY stated he wanted to amend HB 262 removing the word "disease" from the entire bill. As a result it would read, "regulation of special wild buffalo control license." On line 16, he wanted to change the word "hunt" to "participate." It would be considered a bison control act using citizens to assist FWP. He asked **REP. MENAHAN** for his comments. **REP. MENAHAN** stated he planned to make changes. In drafting the bill, people were unsure of the proper terminology that should be used.

REP. CHASE HIBBARD commented the Montana cattle industry worked for decades to achieve a brucellosis free status. Montana was one of the first brucellosis free states in the country. It was a source of pride for the state and it would be unfortunate to lose that status. Bison that leave Yellowstone Park posed a real economic threat to the cattle industry. He stated that he would oppose the bill. Ultimately, citizens should be allowed to participate but at this time it was unwise. The actions over the past couple of years have only put a "band-aid" on the problem.

REP. HIBBARD asked **Mr. Graham** for suggestions regarding the options available to address the problem and solve it. **Mr. Graham** said ultimately action needed to occur within the boundaries of the park. During the last five years, bison population has doubled. A tri-state brucellosis panel met in the past year to try and address the issue. It was a complex issue because it involved Yellowstone Park's bison herd crossing the borders of three states. Montana's actions would only handle the short-term problems. The Environmental Impact Statement (EIS) being completed should help provide more information while the long term solutions were being worked on. **REP. HIBBARD** believed the solution would involve population and disease control not only of bison but other wildlife as well. **Mr. Graham** said that in order to address the problem entirely, the state would have to look beyond park boundaries. A long term plan would involve collecting large numbers of animals as they move out of the park. In order to allow public participation, a management zone must be established that was accepted by federal agencies. It may potentially require quarantine facilities and testing.

REP. ROD MARSHALL asked **Mr. Graham** the reason bison were not auctioned when they were killed by FWP. **Mr. Graham** explained the program was evolving. Some animals were auctioned. Native Americans provide all the resources and people to process and distribute the bison given to them. Recently, he requested that a policy be developed that would provide the same opportunity to everyone as long as they provide the resources. **REP. MARSHALL** stated that a portion of the problem was all of the meat was given away. Some people in the state resent having it all given away. **Mr. Graham** agreed.

REP. KNOX asked **Mr. Graham** if the bison killed by FWP were tested for brucellosis. **Mr. Graham** said yes. **REP. KNOX** asked for the percentage found infected. **Mr. Graham** said approximately 40% were reactors and about 12% tested positively for the disease.

REP. JIM ELLIOTT stated that the Stockgrowers Association supported the bill four years ago. He asked **Chris Mehus** if the organization preferred the "status quo" until sufficient pressure was applied to the federal park service to take action. **Mr. Mehus** said he was not familiar with the organization's issue of four years ago. If a hunt was established, it would alleviate some of the pressure on the park service to act.

REP. ELLIOTT asked **Mr. Graham** if there had been an indication from the National Park Service that they would soon take care of the problem. **Mr. Graham** said he believed there was an indication. FWP had a tentative schedule. They requested an EIS be completed to compel federal agencies to give more commitment and action on the matter prior to the 1995/1996 winter. Recently, federal agencies have committed to an EIS and made some effort to accept more responsibility.

REP. MARSHALL stated in 1991, the legislature asked the governor to take this problem to the park service and federal government and to court if necessary. The governor did. There seemed to be a small indication of potential action. He asked **REP. MENAHAN** if the committee passed the bill, if the pressure would be removed from the federal agencies. **REP. MENAHAN** said he did not believe that it would remove the pressure. However, HB 262 may help alleviate the problem. In the past, no one from the park service made efforts to assist Montana in harvesting bison. Recently, the park indicated they wanted to cooperate with Montana in establishing limited hunting areas. **REP. MENAHAN** believed the problem needed to be handled through joint cooperation between Montana and the federal government. He wanted to give a fair chase hunt a chance to aid in solving the problem.

REP. EMILY SWANSON said a lot of frustration stemmed from the fact that the EIS had not been completed. She asked **Mr. Graham** if FWP had the ability to get federal agencies to complete the EIS so that they would not return to the next legislature asking for more time. **Mr. Graham** explained that the main cause of action was to establish the interim plan. Concern was raised over the lack of leverage that the state of Montana had over the federal government. As a result, the lawsuit was filed to gain leverage. The burden of lack of progress fell on Montana in the form of damage to the livestock industry, potential loss of Montana's brucellosis-free status, and negative publicity regarding harvest of the animals. Federal agencies have missions as defined by law. Those missions conflict with effective management of Yellowstone National Park. Montana was "caught in the middle." All involved parties needed to proceed with a solution. The lawsuit could be dropped if federal agencies would address the problems. Perhaps this would give the federal agencies an

incentive to work toward better management of Yellowstone National Park.

REP. SWANSON said given the need for leverage and the difficulty acquiring it, she asked the reasons FWP proposed amendments to the bill. **Mr. Graham** said the amendments were proposed for two reasons. FWP sensed the frustration felt by a diverse group of people. Filing the lawsuit did not relieve that frustration. FWP believed hunting bison was not a problem in the appropriate setting and at the proper time. The proposed amendment would provide the indication that FWP could proceed with establishing a bison hunt and hopefully alleviate some of the frustrations that were felt. Instead of FWP slaughtering the bison, the amendment provided an alternative. He emphasized that the problem needed to be addressed inside and outside of the federal park. **REP. SWANSON** asked **Mr. Graham** about the intent of the amendments. **Mr. Graham** said it was his intent to establish a hunt if all the conditions could be satisfied.

REP. RANEY asked **Mr. Graham** if HB 262 provided a useful tool in handling the problem or would it prohibit FWP from completing its objectives. **Mr. Graham** said it did not exclude other options but returned to the issue of leverage. Hunting bison in Montana would focus the problem outside of the park. It will be difficult for Congress and Americans to support actions taken inside of the park. As long as action can be deferred to Montana, the federal government will do so.

REP. RANEY said it seemed that there was no leverage against the federal government. They have been "dragging their feet for six years." He asked if the media made a spectacle of the hunt, if that would apply leverage to the federal agencies. Montana was responding to the federal government's inability to handle the problem. **Mr. Graham** said he had followed the news coverage for about six years. The best portrayal of Montana's efforts was in a recent news story regarding the buffalo and potential lawsuit to be filed. It was only when the state proceeded with the lawsuit that consideration was given to the fact that Montana could possibly be the victim, and the national park was the perpetrator. **REP. RANEY** said that was part of his point. It should not be called a hunt or disease control but rather "bison control." Once people are allowed to hunt and the press showed up, Montana would appear as the victim. He believed the resulting national press coverage would assist the state in having some leverage. **Mr. Graham** stated it was a matter of interpretation. FWP stopped using the word "hunt" and replaced it with "control action" a few years before the buffalo hunting season was terminated. During the last hunt when things got out-of-hand, FWP arrested people on the hunter harassment. It did not matter that FWP changed the terms used. The general public viewed it as hunting.

REP. KNOX stated that the bison population exceeded the park's capacity. He asked **Mr. Graham** about additional data regarding

the matter. **Mr. Graham** said a biologist estimated the capacity to be 2,000 to 2,300 bison but the matter was still being debated. The population was currently about 4,000. As the numbers of animals increase in the park, more animals will be leaving the park because of lack of food. **REP. KNOX** agreed. He asked about the number of bison that would be killed if a fair chase hunt was established.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: Lost 15 seconds.}

Mr. Graham said it depended on several factors including how many migrated out of the park. The number could range from a few dozen to several hundred. **REP. KNOX** stated that only a relatively small number of the surplus bison would be harvested. **Mr. Graham** stated that according to FWP information, the bison herd increased from 500 to 700 head per year. If there were that many outside the park each year, that amount would need to be harvested to keep the population under control. **REP. KNOX** remarked that park service management was a disgrace. The federal government had failed to address the problem and was now inflicting a great deal of damage to the state of Montana as well as to Yellowstone National Park.

REP. BOB REAM commented that he had taken classes for 25 years in Yellowstone Park. The change over the years had been phenomenal. Recently he was there and the ranges were in embarrassing conditions. The Yellowstone Coalition expressed support for the bill but only with the provision of harvesting occurring on public land.

REP. REAM asked **REP. MENAHAN** if he would agree to an amendment that would add this provision. **REP. MENAHAN** said yes. In discussions with the new director of the park, he seemed to be agreeable to the idea. **REP. REAM** said the bill was effective on passage and approval. It meant there could possibly be a harvest established this winter. He did not feel that was practical. He asked **REP. MENAHAN** about the possibility of a delayed effective date. **REP. MENAHAN** stated that it would be at the discretion of FWP. Perhaps a modest version of bison hunting could be established this year. **REP. REAM** said Section 4 of HB 262 repealed Section 87-1-215. FWP had proposed reinserting that section with amended language and he agreed with the idea. The value of the section was that Montana would continue to focus on the problem and continue to apply pressure to the park service. He asked if **REP. MENAHAN** would object if the language was reinserted. **REP. MENAHAN** said no. He was also concerned about continuing to apply pressure to the park but wanted Montana citizens to have the opportunity to harvest wandering buffalo in a fair chase situation.

CHAIRMAN WAGNER asked **Mr. Graham** if HB 262 could be passed with the amendments to allow a fair chase harvest and not negatively impact the governor's lawsuit. **Mr. Graham** said it was a matter of judgement. A fair chase harvest would be on public land. A

public land harvest would allow anyone to participate and the methods used may or may not be ethical. He said the committee would have to judge for themselves whether or not it would actually help the state. Allowing the hunt will be perceived differently by various people. Ultimately, the problem needed to be addressed inside the park. **CHAIRMAN WAGNER** said he agreed that brucellosis must be controlled within park boundaries. He asked if a few select areas outside the park would be available for public bison harvesting since deer and elk were already hunted in those areas. **Mr. Graham** said it was ironic that hunting was proposed. In the past, when FWP tried to take control actions they were advised by federal agencies that the area was a wildlife management area. Recently, the same area was proposed as the place to reinstitute bison hunting.

CHAIRMAN WAGNER asked whether the proposal came from the park service or forest service. **Mr. Graham** said it was a change for the federal government to shift their position on the manner in which bison were handled. Elk was currently being harvested in the area. **CHAIRMAN WAGNER** asked about the fees charged for a buffalo license. **Mr. Graham** said he was not familiar with the amount charged originally.

Closing by Sponsor:

REP. MENAHAN stated the herd had increased greatly since the time of the last bison hunt. The bison were at risk of starving because of poor range management. Herds were more likely to be lost to disease and starvation rather than through a controlled harvest of the animals. This point should be brought to federal agencies. This was a more humane and justified way to control bison population. He asked the committee to consider the bill and amendments carefully and recommended HB 262 be passed.

HEARING ON HB 486

Opening Statement by Sponsor:

REP. RICK JORE, House District 73, Ronan, said the majority of his district existed within the Flathead Indian Reservation. HB 486 dealt with the state-tribal hunting and fishing cooperative agreement currently in effect. The intent of HB 486 was to revise the agreement to recognize private property rights. On the reservation, there were tribal, private, state, and federally-owned lands. With that mix of ownership of land, jurisdictional misunderstandings occurred. In 1989, the legislature enacted SB 446, which gave FWP the authority to negotiate an agreement with the Confederated Salish and Kootenai Tribes. Because of jurisdictional difficulties, it appeared to be to the advantage of both the state and Indian tribes to cooperate in managing hunting and fishing. SB 446 authorized FWP to allow members of the tribes to hunt and fish off the reservation on only unclaimed land without state licenses or

permits. SB 446 also authorized FWP and the tribe to jointly issue hunting and fishing licenses, permits, stamps. Revenue from the sale of those joint licenses were remitted to the tribal council along with certain fines and restitution collected from fishing and hunting violations. None of the previously mentioned provisions from SB 446 were contested. The main point of HB 486 was at the top of Section 2. This new section utilized part of the tribal agreement to terminate it within 120 days.. **REP. JORE** stated that it sounded more serious than it was. He believed HB 486 would be simple to implement. Many people who live on the reservation pay taxes to the state of Montana, are subject to Montana laws, and vote in state elections. They felt that their private property rights should be recognized equally with other private property rights. The language found on the top of page 2, lines 1-5, was part of the law that also needed to be amended.

Proponents' Testimony:

Del Palmer, citizen, expressed support for HB 486 and handed in written testimony. He read a letter to the editor that he wrote in response to a FWP report that was published regarding the Flathead Indian Reservation pact. The report stated the pact had been designed with virtually no problems and that the governor had renewed it for another four years. His letter discussed serious flaws that existed but were kept secret. In 1994 no citations were issued for failure to possess the state/tribal license even though violations were reported. **Mr. Palmer** also disagreed with the manner in which fees were handled. He requested a degree of fairness. He did not mind buying a tribal license or operating under their regulations nor did he mind buying the joint license when needed. **Mr. Palmer** challenged the committee to discover the source of money used to pay the expenses of the thousands of acres owned by the state on the reservation when no money was received for licenses. He also presented a copy of a letter from **James Manley, Attorney** along with copies of several statutes regarding the agreement.

EXHIBIT 7 AND 7A

Jon Kramer, citizen, submitted written testimony along with a petition with several hundred signatures in support of HB 486. He believed that the agreement should be changed so that the only requirement for non-tribal people to hunt and fish would be to obtain a Montana license. As a result, Montana would pay the tribe a negotiated sum of money each year for the privilege to utilize their land. He spoke of the advantages of these changes including the fact that people would be treated more equally.

EXHIBIT 8 AND 8A

Stan Ryan, citizen, said the committee would hear that the agreement was well received and was working well. He said not to believe it. It was not working well. The attorney general's office has tried to prosecute but was unsuccessful. If the agreement was so well received, he wanted the people who lived there to have an opportunity to vote on the issue. He asked the

committee to make their decision based on fairness to all people. Mr. Ryan handed in written testimony. **EXHIBIT 9**

William Slack, Flathead Joint Board of Control, said the board was made up of 11 elected officials from three districts and he expressed support of the bill on their behalf. When the first agreement was proposed, they became interested. **Mr. Slack** gave a brief history of how the agreement came about. He read an excerpt from a letter written to Governor Racicot regarding the issue. A change was needed and HB 486 accomplished the necessary changes.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: Tape was turned over toward the end of Mr. Slack's testimony. A portion of his testimony was inaudible due to background discussions. Lost 15 seconds.}

Roy Morris, citizen, expressed support for the bill. He stated that private property landowners should have authority to do as they wish on their property.

Dan Sellers, citizen, felt that residents of the reservations should be treated the same as other Montana citizens. He handed in a Witness Statement. **EXHIBIT 10**

REP. JORE handed in written testimony from **Ervin Davis, citizen** and from the **Lake County Commissioners** in support of HB 486. **EXHIBIT 11 AND 12**

CHAIRMAN WAGNER handed in several typed sheets with names of people supporting HB 486 from the Flathead area. **EXHIBIT 13**

Opponents' Testimony:

George Oschenski, citizen, presented written testimony on behalf of **Rhonda Swaney, Vice-Chairman of the Confederated Salish and Kootenai Tribes**. The letter said HB 486 sought to destroy a functioning and beneficial intergovernmental relationship between the state and the tribes. The agreement represented the good faith efforts of the tribes and state to resolve a complex legal and jurisdictional issue. It also represented a settlement of federal litigation over hunting and fishing issues on the reservation. If the agreement was terminated, the situation could revert to its prior state. A copy of the "State-Tribal 1990-1994 Progress Report" was distributed to committee members. The tribes did not want to see the agreement terminated. **EXHIBIT 14 AND 15**

Lee Green, Fort Peck Tribe, talked about the cooperative agreement. The agreement should be given an ample opportunity to complete its objectives. It was a peaceful solution arrived at through much debate. He encouraged everyone to work together in giving the agreement a fair chance. **Mr. Green** believed some special interest groups were trying to change the agreement. He

opposed the bill and encouraged the committee not to look favorably on it.

REP. GEORGE HEAVY RUNNER, House District 85, Browning, asked the committee to consider another aspect in terms of the impact of HB 486. The message he received from tribal members was that it may not be worth their while to negotiate agreements when they can potentially be abrogated through the legislative process. He referred to page 2, lines, 24-26, which said, "It is intended that after that date, the state of Montana, by and through the Department of Fish, Wildlife and Parks, negotiate and conclude an agreement with the Council of the Confederated Salish and Kootenai tribes of the Flathead Indian Reservation." He asked if the committee thought the tribes would forget the years of hard work, negotiation, and compromising undergone to achieve co-management of reservation resources. The alternative will be settling issues in court. HB 486 lifted away "the fragile blanket of hope that tribes and the state can work together." The strong underlying foundation of subtle racism was exposed. Once again, tribal people must face and prepare themselves for the onslaughts of hatred, ignorance, and unwillingness to cooperate. **REP. HEAVY RUNNER** urged the committee to vote against the bill and send the message that Montana has progressed in working with the tribes. Tribal people are Montana citizens as well and have pride in the state. He believed that if committee members voted in favor of HB 486, it would send a message that there were two sets of Montanans in the state.

Pat Graham, Director, Department of Fish, Wildlife and Parks handed out written testimony opposing HB 486. FWP understood the frustrations that were experienced by non-Indian people who live on their own land within the exterior boundaries of a reservation. FWP experienced similar frustrations attempting to regulate the state's fish and wildlife on lands where a tribal government also has or claims to have jurisdiction. Throughout the negotiation on the cooperative agreement, FWP and the tribes concentrated on two mutual objectives while respecting both jurisdictions. They focused on protecting the resources and simplifying regulations. HB 486 arose from the frustrations caused by dual jurisdictions. However, rescinding the cooperative agreement would increase those frustrations. The agreement was developed to forestall litigation. The agreement was not without problems and needed improvement. Passage of HB 486 would not promote good relations. It would undermine the working cooperation of the state and tribes. He urged the committee to vote no on HB 486. **EXHIBIT 16**

Joe Mazurek, Attorney General shared the frustrations of non-Indians living on the reservation. His office regularly dealt with difficulties that arose from jurisdictional conflicts. His principal concern existed with the policy. Initial negotiations began under Governor Schwinden and ultimately the agreement was arrived at under Governor Stephens. The agreement settled some ongoing litigation. Up until that time, the state had spent more

than \$300,000 developing its case to resolve the issues between the state and tribe regarding hunting and fishing. If HB 486 passed, the state may spend in excess of \$300,000 trying to resolve issues in court. The agreement fostered cooperation in management of resources and enforcement of game laws. If the bill passed, he expressed concern over the precedent it may set. Montana has developed a policy of cooperation and has led the nation in resolving disputes such as water rights disputes. If the agreement was not honored, it would be a breach of trust and lead to the use of litigation to resolve these conflicts. The cooperative agreement was carefully drafted through collaboration between the state and tribes. He asked the committee to respect the work of Governor Racicot and not pass the bill.

SEN. JEFF WELDON, Senate District 35, Arlee, said he was a non-Indian that lived on the reservation. His chief concern was that a new agreement will not be negotiated and litigation would replace it. He urged the committee to give the bill a do not pass recommendation.

Christine Kaufman, Director, Montana Human Rights Network (MHRN), said it was their mission to help Montana communities conquer hatred and promote tolerance. They work with many groups including the Flathead Reservation Human Rights Coalition. There has been a great deal of racial tension on the reservation. The national headquarters for two anti-Indian groups were located on the reservation. These groups were opposed to tribal sovereignty. To renege on the cooperative agreement that was constructed amidst racial tension would increase community unrest on the reservation. MHRN has always supported tribal sovereignty. HB 486 did not represent the kind of respect due to a sovereign nation. Withdrawing the agreement would show that the state did not negotiate in good faith. She urged the committee to not pass HB 486.

Jim Richard, Montana Wildlife Federation (MWF), appreciated the concerns addressed in HB 486. MWF participated in the development of the agreement and supported it fully. He expressed their opposition to the bill.

Brad Martin, Director, Montana Democratic Party, said they believed the agreement was reached through a lot of hard work and good faith. The agreement represented both parties involved and was a bipartisan effort. He felt it would be a serious mistake to rescind the agreement.

Questions From Committee Members and Responses:

REP. WELLS asked **Mr. Graham** about occasions where people were cited with violations but the juries decided not to convict. **Mr. Graham** said on one occasion it was a non-tribal member hunting on fee land without a tribal license. **REP. WELLS** asked about the makeup of the jury. **Mr. Graham** said he did not know. The court hearing was held in Lake County in Polson. **REP. WELLS** asked if

jury members were tribal members or non-tribal members. **Mr. Graham** said he did not know. **REP. WELLS** said the situation had happened more than once and yet no convictions had been successful. He asked if the law was enforceable and the reason the jury may be determining people not guilty. **Mr. Graham** said the law was enforceable. He referred the question to **Joe Mazurek**. **Mr. Mazurek, Attorney General** said there had been two trials. One happened before the 1993 session and the other took place after the 1993 session. A conviction was not obtained in either case. The jury in both cases was made up of registered voters in Lake County, both Indian and non-Indian people.

REP. WELLS asked for his opinions regarding how the law was applied in these cases. **Mr. Mazurek** said one of the cases involved a non-Indian hunting on his own land but it was also fee owned land. Juries have failed to convict and he did not know the reasons.

CHAIRMAN WAGNER said as he understood the testimony, a tribal member could purchase a tribal permit on the reservation and hunt anywhere in the state. He asked **Mr. Graham** if this was correct. **Mr. Graham** said the joint state-tribal license entitled the holder to hunt and fish outside the boundaries of a reservation. **CHAIRMAN WAGNER** asked if the revenues from the joint state-tribal license went to the tribe or to the state. **Mr. Graham** replied that revenues went to the management of the fish and wildlife resources within the exterior boundaries of the reservation. Revenues can be utilized on tribal and private land within the boundaries of the reservation. **CHAIRMAN WAGNER** asked about the source for the money used to make improvements on the land. **Mr. Graham** referred to page 11 in the "State-Tribal 1990-1994 Progress Report." FWP owned some land within the exterior boundaries of the reservation. They were funded with state money. Tribal money spent on fish and wildlife far exceeded the amount of money utilized from permit revenue. Permit revenue did not sustain either the state or tribal efforts in the area.

REP. WELLS said he reviewed the material given to the committee by FWP. An indication was made that significant benefits would be eliminated if HB 486 passed. It appeared that the majority of benefits went to the tribal side of the agreement. The average Montana citizen only gained the benefit of buying one license rather than two. He asked **Jim Richard, MWF** about other benefits for the average Montana citizen. **Mr. Richard** indicated he would try to answer the question. The single license was part of it. Another part was that the issue was settled so that private landowners could hunt and fish without having to undergo litigation. **REP. WELLS** asked **George Oschenski** if he knew of other benefits besides the singular license. **Mr. Oschenski** said he could not answer the question. He only read the testimony on behalf of **Rhonda Swaney, Vice-Chairman of the Confederated Salish and Kootenai Tribes**. **REP. WELLS** asked if anyone had more information regarding the benefits from the agreement to the state of Montana. No one responded.

{Tape: 3; Side: A; Approx. Counter: 000; Comments: N/A.}

Closing by Sponsor:

REP. JORE stated that he represented both tribal and non-tribal members. He said that as a representative he could not support a law unequally defined to any portion of his constituents. He respected tribal member property rights. The intent of HB 486 was to respect the property rights of non-tribal members. Arguments could be raised as to the reason those people were on the reservation in the first place. He did not debate that the federal government was deceptive in designing the Hellgate Treaty governing reservations. However, non-tribal members that moved onto the reservation did not do so under the pretense that they would forfeit their rights and privileges as U.S. citizens. REP. JORE asked committee members to evaluate the situation from the perspective of applying law equally to all Montana citizens. He believed the bill was more innocent than what it was made out to be.

The items that REP. JORE mentioned in his opening statement would not be removed from the agreement and it would be easy to implement. Concern was raised about Montana losing credibility if it violates the agreement. He asked about the credibility of the state with the 80% of non-tribal members on the reservations. Two principal issues of government were involved in this issue. The first was being able to vote on new laws and the second was that people resist the notion of taxation without representation. He was frustrated with continuous issues of hate groups and racism. Being born and raised on a reservation, he saw very little racism on the reservation. He expressed respect for all of the proponents. However, many of them were off reservation citizens and did not experience the deprivation of their rights as Montana citizens. He believed it was "easy" for FWP and the attorney general to negotiate pacts because they were not directly affected. The credibility of those state agencies with non-tribal members was not high. He expressed utmost respect for tribal members and their rights and emphasized that he harbored no animosity toward tribal members nor was there any racism or hate behind the motive of the bill. He hoped the committee would see beyond the points argued by opponents and urged the committee to pass the bill.

The committee took a 15 minute break and the tape was turned off.

HEARING ON HB 451

Opening Statement by Sponsor:

REP. JIM ELLIOTT, House District 72, Trout Creek, said HB 451 extended the mountain lion season. The reason for the extension was because 75% of the mountain lions were harvested by out-of-state hunters. HB 451 would "give Montana hunters a little

fairer shot" at harvesting mountain lions. The Fish and Game Commission would be allowed to set the season for the Class D-2 licenses to coincide with the general big game hunting season, including the archery season. **REP. ELLIOTT** read a letter from **Fred Cavill, Eastern Sanders County Sportsmen Club** in support of the bill. **EXHIBIT 17**

Proponents' Testimony:

Jean Johnson, Executive Director, Montana Outfitters and Guides Association, expressed support for the bill. They viewed it as an extension of hunting opportunities for resident sportsmen.

Robert Flansaas, Noxon Rod and Gun Club, read a letter he wrote to **REP. ELLIOTT**. It explained that they wanted the mountain lion season changed to be able to hunt mountain lions during the general hunting season. He said HB 451 would allow Montana residents a greater opportunity to harvest a mountain lion. **EXHIBIT 18**

Jim Richard, Montana Wildlife Federation and Ravalli County Fish and Game Organization, expressed support for the bill.

Jerry Shigley, outfitter, said he hunted mountain lions with hounds. He urged the committee to support the bill with a minor change. No licenses should be sold during the season. Instead, licenses would have to be purchased before the season began. HB 451 increased the opportunities of a hunter to harvest a mountain lion. Expanding the season would also provide FWP with an opportunity to collect data on the hunting of mountain lions without the use of hounds.

Opponents' Testimony:

Greg Houska, Montana State Houndsmen Association and Big Sky Houndsmen, expressed opposition to the expansion of the season. They felt it was a moot point because there were areas of the state that opened up on September 15. During certain times of the year, it was hard to judge the size of the lion and its gender. Many times, a mother mountain lion does not have her kittens with her. It was impossible to determine if a mountain lion had kittens when she was seen prowling. The present season does not restrict anybody from hunting mountain lions. Also, the current season did not conflict with other hunting seasons. If HB 451 passed, conflicts could arise, especially if mountain lion hunters pursued lions with hounds. The issue had been reviewed by the Fish and Game Commission and they decided not to change the season. Issues such as these were best left to the discretion of FWP.

Gary Lanford, Montana Federation of Houndsmen, said there was a need to harvest mountain lions because of population growth. However, there was also a need to protect a feline with her young. They have worked with FWP in completing an Environmental

Impact Statement (EIS). The current season was more than adequate. Recently, Oregon's mountain lion season was discontinued. He did not want to see the season ended because mountain lions "would end up in people's backyards" due to overpopulation.

Pat Graham, Director, Department of Fish, Wildlife and Parks, distributed written testimony. FWP was currently in the process of assessing the management of mountain lions through the development of an EIS. Mountain lion numbers have greatly increased in recent years. The Fish and Game Commission doubled the quota on mountain lion harvest in the last 13 years to address concerns of the increase in population. Use of hounds was allowed in mountain lion seasons. This would not be recommended during the general big game season when other hunters were in the field. He urged to the committee to allow them to continue their study and complete the EIS. **EXHIBIT 19**

Questions From Committee Members and Responses:

REP. TASH said the license was managed through FWP or the Fish and Game Committee. **REP. ELLIOTT** said he was correct. The reason for the bill was that people felt FWP and the Fish and Game Commission were not responsive to public needs. **REP. TASH** said the issue may be similar to the buffalo bill. HB 451 would prompt FWP to take action. **REP. ELLIOTT** said yes. **REP. TASH** said he understood HB 451 would legislate mountain lion law changes. **REP. ELLIOTT** said that many hunting provisions were set by statute. He directed the questions to **Mr. Graham**. **Mr. Graham** said the issue was brought before the commission, but they wanted to wait until the EIS was completed before taking any actions. The commission may take suggestions from the bill or they may not.

REP. BILL REHBEIN said the effective date of the bill was March 1, 1996. He asked **Mr. Graham** if this was past the time when the EIS would be done. **Mr. Graham** said the EIS should be completed by August, which was in time for the next season-setting process. **REP. REHBEIN** stated that since the effective date was not until March 1, 1996, it should not upset the EIS process. **Mr. Graham** said no, but it would predetermine a conclusion.

{Tape: 3; Side: B; Approx. Counter: 000; Comments: REP. REHBEIN's last question was cutoff along with most of Mr. Graham's response. Lost 15 seconds.}

CHAIRMAN WAGNER asked **REP. ELLIOTT** about including a restriction of "no dog running" in the general season. **REP. ELLIOTT** understood that the Fish and Game Commission could set that rule. If the mountain lion season was expanded to the general season, the use of dogs would increase the harvest. **CHAIRMAN WAGNER** asked if the bill included language to ensure that there would be little effect on houndsmen or was it assumed. **REP. ELLIOTT** could not say there was no effect on the houndsmen. However, very

little adverse effects were expected. **CHAIRMAN WAGNER** stated that in some areas there were subquotas. If the general public harvested the quota, it could close the season for houndsmen. He asked for **REP. ELLIOTT's** response. **REP. ELLIOTT** assumed that would be true. Since mountain lions were seen infrequently, he did not believe there would a large effect on the houndsmen. It was unfair to limit opportunities and the general hunting population should have an opportunity to harvest a mountain lion.

CHAIRMAN WAGNER asked **Mr. Graham** regarding the laws that allow a person to dispense of a mountain lion within city limits. **Mr. Graham** said it could be dispensed of for protection reasons. If a mountain lion was seen, it should be reported to FWP. **CHAIRMAN WAGNER** said mountain lion tracks had been found near his town in areas used by children for sledding. He asked if a mountain lion was seen in close proximity to the children that were playing could the lion be dispensed of. **Mr. Graham** said he did not know the specific regulations but did not believe it was legal.

CHAIRMAN WAGNER asked if he was familiar with the seasons and subquota issues mentioned earlier. **Mr. Graham** said houndsmen could be affected. The difficulty in selling over-the-counter licenses was that it was difficult to know when quotas had been met. The options being examined currently were continuing the quota system or changing to a drawing system. The drawing system would address the nonresident issue brought up earlier. Harvest was difficult to predict with over-the-counter licenses.

CHAIRMAN WAGNER said FWP does not have mandatory reporting requirements and anyone can buy a mountain lion tag. **Mr. Graham** said in the quota system, people who had licenses have to file a report. People were supposed to report their harvest within 48 hours. During the past season, the quota was exceeded by 50. He referred questions to **John McCarthy, Department of FWP**. **Mr. McCarthy** said there were three areas in the state that are wilderness areas. Access opened in these areas the same as the general season which was on September 15. All other areas open on December 1. Currently, areas in the wilderness are open but a person cannot use hounds in the general season. **CHAIRMAN WAGNER** said there had been more sightings of mountain lions and they were acting aggressively. People in his area had expressed a desire to reduce mountain lion population. He asked for **Mr. McCarthy's** comments. **Mr. McCarthy** said the commission dealt with the quota by doubling it.

Closing by Sponsor:

REP. ELLIOTT said the intent of the bill was to give more Montana hunters an opportunity to harvest a mountain lion. The majority of people were hunting during the general season. Should a person come across a mountain lion, they should have the chance to harvest it. The only way a person can tell a mountain lion was lactating was chasing it up a tree with a hound. This discriminated against people who cannot afford a hound or an

outfitter. FWP addressed the concern of anticipating harvest numbers through mandatory reporting. Where he lived, there had been a large increase in the number of mountain lions. HB 451 would not be a detriment to wildlife and he hoped the committee would view it favorably.

HEARING ON HB 464

Opening Statement by Sponsor:

REP. HAL HARPER, House District 52, Helena, said he sponsored the bill because of the current problems with fish diseases and illegal introduction of fish into lakes and rivers. HB 464 allowed FWP, with reasonable cause, to enter and inspect private fish ponds for the presence of fish disease and illegal introductions. The department would be required to notify the landowner of their intentions. If FWP found fish that were illegally introduced or disease was present, they could take appropriate action to try and protect fishing resources. If FWP had to destroy the fish, under certain circumstances, they would replace the fish free of charge to the owner. Section 2 provided a 2-year moratorium on the issuance of new fish pond licenses. There has been a large increase in the number of requests for private fish ponds. Fish ponds were relevant to the spread of whirling disease.

Proponents' Testimony:

Pat Graham, Director, Department of Fish, Wildlife and Parks, distributed written testimony in support of HB 464. Montana law prohibited stocking fish into any water of the state unless permitted by FWP. One commonly issued permit was for private fish ponds. There was a need for change to meet current conditions. The increase in demand for fish ponds has increased due to the proliferation of subdivisions and ranchettes across the state. The recent discovery of whirling disease in Montana underscores the importance of maintaining a high standard for public and private bodies of water. It was imperative that FWP have the ability to inspect bodies of water that they suspect may be stocked with illegal or diseased fish. The need for inspection was not done to be punitive, but rather to identify, contain, and control the spread of disease and protect Montana's fishing resources. HB 464 was necessary to maintain the health of Montana lakes and rivers and he urged to committee to pass the bill. **EXHIBIT 20**

Robin Cunningham, Executive Director, Fishing Outfitters Association Montana, expressed support for the bill. They recognized HB 464 as a tool to aid FWP in monitoring bodies of water in Montana.

Art Whitney, Montana Chapter of the American Fisheries Society, handed out written testimony. He also handed in a Witness

Statement from Janet Ellis, Montana Audubon Legislative Fund, in support of the bill. He expressed concerns regarding the permits issued for private fish ponds in Montana. Private fish ponds were potential sources for movement of disease and illegally introduced fish. Action should be taken to avoid future problems. He urged the committee to support the bill. **EXHIBIT 21 AND 22**

Jim Richard, Montana Wildlife Federation, expressed support for the bill.

Opponents' Testimony:

CHAIRMAN WAGNER submitted a letter from Alan Harriman, Harriman Trout Company, opposing the bill. **EXHIBIT 23**

Questions From Committee Members and Responses:

REP. HIBBARD asked **REP. HARPER** if the moratorium was necessary. The problem would be handled if FWP increased inspections and efforts to identify contaminated bodies of water. He stated the issuance of a moratorium might be extreme. **REP. HARPER** agreed and he offered an amendment to strike Section 2 which contained that provision.

REP. WELLS referred to page 3, lines 11-12, "if the department has surplus hatchery fish or eggs available." He asked **REP. HARPER** if this occurred. If the private pond owner was not responsible for the contamination, they should get their fish replenished. **REP. HARPER** agreed. In reviewing past hatchery records, there has almost always been surplus fish or eggs.

CHAIRMAN WAGNER said the committee heard a lot of information concerning whirling disease, but he was not convinced that hatcheries or fish ponds that had not been inspected were the sources. He asked **REP. HARPER** if he believed otherwise. **REP. HARPER** believed he knew the exact area in the Madison River where the disease was introduced. He caught a number of fish in this area that were hatchery fish. He also believed they were illegally planted. Having read all the information, it was a fact the disease came from Europe in a batch of frozen fish. It was also known that whirling disease needed a tubafex host worm to reproduce. The worms were found in and near most bodies of water. The disease was transported primarily through illegally planted fish.

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CHAIRMAN WAGNER asked about tubafex worms. **REP. HARPER** said the tubafex worm was the only known host worm for the whirling disease parasite. **CHAIRMAN WAGNER** asked if it was the same worm that could be purchased in an aquarium shop to feed aquarium fish. **REP. HARPER** said no, the ones he referred to were microscopic worms. **CHAIRMAN WAGNER** said he once had an aquarium

and bought tubafex worms to feed the fish. He emphasized that the disease may have been introduced from some source other than hatcheries. **REP. HARPER** said the worms were everywhere.

CHAIRMAN WAGNER asked how inspecting the ponds affected or changed the course of whirling disease. **REP. HARPER** said unless the parasite is present, there was no concern over the worms. When the parasite mixed with the worms, the second stage evolved. The parasite that emerged from the worm had three appendages on it and a scorpion-like stinger. It attached itself to the side of a fish, stung it, and spores were released into the fish.

CHAIRMAN WAGNER said he did not debate the fact that it was a serious issue. He expressed concern about judging people to be villains before it was actually proven. He was trying to decide if it was necessary legislation. **REP. HARPER** said most ponds were licensed. Some people were already inspecting their ponds.

REP. RANEY asked **Larry Peterman**, Department of Fish, Wildlife and Parks, to address the movement of whirling disease. **Mr. Peterman** said the disease was thought to have originated in private hatcheries and in the transport of live fish. FWP hatcheries currently do not have whirling disease. They were in the process of inspecting private hatcheries.

CHAIRMAN WAGNER asked **Mr. Peterman** if the Creston Hatchery belonged to the U.S. Fish and Wildlife Service. **Mr. Peterman** said yes. **CHAIRMAN WAGNER** spoke with people who believed that whirling disease did not originate in hatcheries. **Mr. Peterman** said the Creston Hatchery did not have the disease nor did other hatcheries in the state. However, it had been documented that a few in Idaho, Colorado, and Utah private hatcheries contained the disease. **CHAIRMAN WAGNER** asked if any Montana hatcheries had whirling disease. **Mr. Peterman** said FWP was in the process of checking all private and commercial hatcheries.

REP. TASH asked **REP. HARPER** about the fish he caught on the Madison River that he believed were illegally planted. **REP. HARPER** said the area was above the west fork of the Madison River. **REP. TASH** asked how he was able to determine that they were illegally planted. **REP. HARPER** said he could not determine that. At the time, he did not know that they had been illegally planted. After researching the issue on that area of the river, there were no records of legal introductions. **REP. TASH** said that in **REP. HARPER's** testimony he indicated that he knew that they were illegally planted. **REP. HARPER** said if he said that, he made a mistake and retracted that statement. **REP. TASH** asked about fish ponds and inspections. **REP. HARPER** stated that FWP currently had the authority to issue licenses. HB 464 gave FWP the authority to inspect fish ponds, with reasonable cause, after notifying the landowner. The proposed moratorium would be eliminated from the bill.

CHAIRMAN WAGNER asked **REP. HARPER** how a person could discern a hatchery fish from a wild fish. **REP. HARPER** said fish fins, nose, and heads were malformed. **CHAIRMAN WAGNER** stated that the

disease originated in Europe and could be transported frozen.

REP. HARPER commented that the disease was present in Europe and came to the United States through processed, frozen fish. The tails of fish turn black when they have the disease and they swim in circles making them easy prey for predators. CHAIRMAN WAGNER asked Mr. Graham if he expected an increase in FTE's. Mr. Graham said FWP had a substantial workload issuing fish ponds permits. He expected the department would run a crosscheck of all pond permits with fish stocking records. People who had fish and had no records would be contacted to discover the source of the stocked fish. Potentially, an informative 800 phone number would be established. He did not expect that the department would need to inspect all fish ponds.

Closing by Sponsor:

REP. HARPER stated that the ponds were "like sticks of dynamite." It was a hassle to have to inspect many different bodies of water, but it must be done to protect Montana fish.

EXECUTIVE ACTION ON HB 464

Motion: REP. TASH MOVED HB 464 DO NOT PASS.

Discussion:

REP. TASH said that FWP had the authority to issue the permits. Testimony had been heard from other bills that there were restrictions on FWP budget. Laws cannot be effective unless they were enforced. Mandating inspection was not a preferable action. Encouraging cooperation was a better way to handle the situation. He compared it to the 18-month consensus process used on HB 195, the landowner, sportsmen, and outfitter bill.

REP. HARPER said the problem had not existed for 18 months. Reports indicated that rainbow population had already declined and the disease was found in the Ruby River. The disease had the potential of closing the Madison River and causing a negative impact on the economy.

Substitute Motion: REP. HARPER OFFERED A SUBSTITUTE MOTION THAT HB 464 DO PASS.

Motion: REP. HARPER MOVED HIS AMENDMENTS DO PASS.

Discussion:

REP. HARPER distributed a copy of amendments to committee members. The amendments struck some language, including the section about issuing a moratorium. EXHIBIT 24

REP. TASH expressed opposition to the amendments. Throughout all the testimony, the origin of whirling disease was never established.

REP. RANEY said FWP held symposiums regarding the disease. There were plenty of facts offered. If the legislature did not give the department "tools," they would not be able to effectively handle the problem. He expressed support for the amendments.

CHAIRMAN WAGNER asked the reason the termination date was stricken. Doug Sternberg, Legislative Council replied the reason was that Section 2 would be removed.

Vote: HARPER AMENDMENTS DO PASS. Motion carried 14-3 with REPS. TASH, REHBEIN, AND WAGNER voting no. REP. PAVLOVICH was absent for the vote.

Discussion:

REP. HARPER wished there was time to learn more about the disease. However, whirling disease was spreading too fast. The governor had considered using emergency funds to combat the disease. HB 464 was a legislative tool that FWP believed it needed to combat the disease. The issue was whether or not the legislature was going to grant them the authority to effectively handle the problem.

REP. TASH said if the legislature tried to mandate provisions to correct a problem that had not been proven, they were wandering from the focus of the bill. Whirling disease was mentioned in the bill. Fishing ponds were also mentioned in the bill. Mandating that the department can inspect fish ponds whenever they feel reasonable cause was not in the best interest of the public. He said the only type of proof will be the department's inspection. He said it was another situation where landowners had to prove their innocence.

Motion: REP. HARPER MOVED HB 464 DO PASS AS AMENDED.

Discussion:

REP. RANEY said currently FWP does not have the ability to inspect hundred of ponds that already exist in Montana. In a heavy rain or flood, if a pond was contaminated, spores could be sent into bodies of water. After that, the damage would be irreparable. REP. TASH responded that FWP might lose the cooperation of landowners if the inspection was mandated. Landowners may be more willing to help if it was on a voluntary basis.

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REP. PAUL SLITER requested that executive action be delayed to gather more information.

REP. HARPER said it would be courteous to any representative requesting more information to postpone action.

REP. BRAD MOLNAR asked REP. HARPER what constituted reasonable cause. REP. HARPER explained that some degree of evidence must be present that indicated a problem. He stated that he was agreed with REP. SLITER's request.

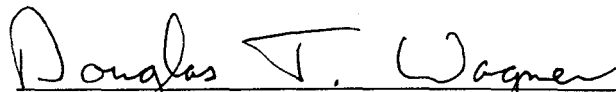
REP. ELLIOTT said "suppose this were brucellosis" and the Department of Livestock knew of the suspect herd but the rancher that had the herd refused access to them. HB 464 was a similar situation to that.

REP. TASH said it was not similar. FWP did not know for sure the source of the disease.

Vote: DO PASS AS AMENDED. Motion carried on a roll call vote 12 to 6 with REPS. WAGNER, REHBEIN, DEVANEY, HANSON, MARSHALL, and TASH voting no.

ADJOURNMENT

Adjournment: 8:05 p.m.


REP. DOUG WAGNER, Chairman


MARY RIITANO, Secretary

DW/mr

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL

DATE February 14, 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 15, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that **House Bill 433** (first reading copy -- white) **do pass**.

Signed: Douglas T. Wagner
Doug Wagner, Chair

Committee Vote:
Yes 18, No 0.

391517SC.HBK



HOUSE STANDING COMMITTEE REPORT

February 15, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that House Bill 464 (first reading copy -- white) do pass as amended.

Signed: Douglas T. Wagner
Doug Wagner, Chair

And, that such amendments read:

1. Title, lines 5 and 6.
Following: "FISH;" on line 5
Strike: remainder of line 5 through "LICENSES;" on line 6
2. Title, line 7.
Strike: "AND A TERMINATION DATE"
3. Page 3, lines 11 and 12.
Following: "owner" on line 11
Strike: remainder of line 11 through "available" on line 12
4. Page 3, lines 14 through 16.
Strike: section 2 in its entirety
Renumber: subsequent sections
5. Page 3, line 20.
Strike: section 4 in its entirety

-END-

Committee Vote:
Yes 12, No 6.

391531SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Fish and Game Committee

DATE FEB 14, 1995 BILL NO. 464 NUMBER 1

MOTION: DO PASS AS AMENDED

NAME	AYE	NO
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 OF REPRESENTATIVES COMMITTEE PROXY

DATE

2-14/95

I request to be excused from the

FISH & Game

Committee meeting this date because of other commitments. I desire

to leave my proxy vote with

SWANSON or HARPER

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
HB 262	X	
HB 464	X	
HB 486	X	
HB 433	X	
HB 451	X	

SENATE BILL/AMENDMENT	AYE	NO

Rep.

Parlow

(Signature)

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 2/14/95

I request to be excused from the Fish + Game
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Emily Swanson.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
HB 94		X
348	X	
451		X
464	X	
486		X
262		X

SENATE BILL/AMENDMENT	AYE	NO

Any amendments or other motions with Swanson.

Rep. Bob Ream
(Signature)

THB433.HP

House Bill No. 433
February 14, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

Montana is a state steeped in hunting tradition. Studies show that hunting is passed down from generation to generation in families. Studies also show that people who do not start hunting before age 18 probably never will.

In today's society, many things work against maintaining the hunting tradition. A more mobile society makes it more difficult for people moving into a state to know where to hunt. The increase in single parent families make it less likely a child will get the opportunity to hunt because of lack of time or knowledge. Once the cycle is broken, it is not likely to begin again unless we make an extra effort.

Approximately 35 percent of our Hunter Education graduates never actually hunt. We believe these youngsters and hundreds more would hunt, if they had the opportunity.

We have had considerable interest expressed by groups such as the Montana Outfitters and Guides Association, Hunter Education instructors and landowners in the development of hunting programs for youth. Landowners who may otherwise close lands near urban areas because of being overrun with hunters have expressed interest in providing hunting opportunities for youth.

HB 433 provides the commission the authority to provide youth hunting opportunities. Any permits, seasons, or programs developed by the Commission would be done only after providing for public involvement.

We must invest in the future today. We urge that you do pass HB 433.

Buffalo Disease Control Bill

(Harvesting of Buffalo by private citizens) HB 262

I strongly ask that you pass this bill for the following reasons and changes with the following changes:

1. The buffalo, as all wildlife, belongs to the citizens of Mt., therefore we have the right to harvest and use the animals, not the State Fish & Game Dept.
2. It is a great opportunity for our Nations people to remember and take part in an aspect of our Nations heritage & culture.
3. It is economically sound, it will greatly reduce the cost to tax payer & Fish & Game Dept.

Changes in the Bill Stop the racism ^{discriminate}

1. Eliminate the giving away of our Nations buffalo to Indian Tribes for free, and charging non-Indians for them at ~~auctions~~ State Auction. Either charge all people or give away free to all people, starting with our Nation first. After all our Nation has preserved the buffalo and our Fish & Game fees are pay^{ing} the bill for the so-called management actions by the F & G without us being able to benefit from our fees.
2. Eliminate the excessive licence fee, this will definitely eliminate most Mt. families from having an opportunity to harvest a buffalo.
3. Going with the present "State position", the state tries to justify giving away the

and greatly reducing costs to the state.

Well lets be fair + honorable, If private citizens shoot the harvestable buffalo and take away the carcasses aren't we then also providing a free service to the state and ~~not~~ greatly reducing costs to the State Game Dept? You bet we are. Give us the same consideration please.

If you ~~must~~ happen to still feel that we should pay some kind of license fee, please make it small, like \$5, or better yet, lets just make purchasing a Conservation license the only fee stipulation.

It all comes down to this, protect our right to harvest our wildlife, make it easier to enjoy hunting by less regulation, keep it affordable, ^{put} ~~remember~~ our Nations heritage, culture and Constitution first and stop the Racism + Discrimination so prevalent in our State Wildlife management Agreements.

Thank you,
Sincerely,

Dan Sellen
Rt. 2
Sewistown Mt.
59457
538-7634

P.S. I will try to
answer any
questions for you.

- Also no - abaspothling
of citizens on hunt by

Montana Centennial Buffalo Hunt

EXHIBIT 24
DATE FEB 14, 1995
HB 262

Dan Sellers
contributing writer

This year of Montana's Centennial has given the best opportunity for Americans to hunt free roaming, wild buffalo (Bison) in over 100 years. I was one of the fortunate hunters who drew a license for the hunt. I would like to share my special buffalo hunt this year in Montana.

Daylight was starting to brighten the eastern horizon on a cold, but calm morning February 8, 1989. I, along with several other buffalo hunters and friends, met at a Montana Fish & Game Department check station for a short briefing before the hunt began.

We learned that approximately 250 buffalo, along with many elk, deer and bighorn sheep had migrated out of Yellowstone Park in search of food.

As we drove to the hunt area, we saw many of the buffalo and elk. The Fish & Game personnel pointed out a herd of around twenty-five head of buffalo that had been moving their way to an area sixteen miles North of the park.

As we approached the buffalo, they immediately bunched up and started milling around. While I got out to try for a shot, the whole herd stampeded out of Yankee Jim Canyon. No one was able to get a shot as the buffalo ran off.

We tried to intercept the herd again as they ran down a pass onto a snow-covered sagebrush flat. At this point, one of the other hunters singled out a bull and made a nice shot. The bull was killed instantly.

As no other good shots could be made there, we went to another point to try and get some better shots. As soon as the buffalo saw us, they stampeded away from us up a hill, offering some challenging shots.

The buffalo were on the run, 100 to 150 yards away, when I finally got a shot at my bull. The 200 grain bullet from my .356 Winchester killed the bull in it's tracks. Two other hunters also got a bull and a cow from this herd before the buffalo ran over the ridge.

I walked up the hill to my buffalo and admired it. I felt very fortunate to have been able to hunt this magnificent animal on the year of Montana's Centennial. I hope, that with the right game management, this buffalo hunt will continue for many more years in Montana.

There has been considerable controversy and false reports, trying to make Montana's buffalo hunt look bad. I would like to present some facts about the buffalo and the hunt.

Yellowstone buffalo are wild animals that, like any other big game animal, need to have their numbers controlled in accordance with the available food supply and habitat.

The reasons for the large number of animals moving out of Yellowstone Park this winter are: lack of food in the Park due to drought, over-grazing by wildlife, and the destructive fires that were left to burn much of the summer and winter range needed by these animals to

survive the winter. Also, the heavy snow and the extreme cold had their effects.

The shooting of buffalo in this hunt harvests many excess animals, which prevents the needless starvation of many of those animals. It will also reduce the grazing pressure on the new seedlings that will be sprouting this spring, as well as helping to protect Montana ranchers' cattle from the disease of brucellosis. It was proven earlier this year by the Texas Agricultural Experimental Station that this disease is transmitted from wild animals to cattle.

I have heard reports that buffalo "stand there like a milk cow" and that it "takes 5 shots, and a half-hour to kill a buffalo". Sure! some buffalo at first just stand there. After they get hunted and pushed around for a while, they wise up in a hurry to the presence of people. The result of

*The shooting of buffalo in this
hunt harvest many excess
animals, which prevents the
needless starvation of many
of those animals.*

this pressure is animals that run, not stand, when a hunter approaches.

As for the statement that "it takes five shots and a half-hour to kill a buffalo": not so. Every buffalo on our hunt was killed by the first shot, with the exception of one cow. This cow required two shots, both within five seconds of each other, to do the job.

I would like all who are concerned with the Montana buffalo hunt to recognize facts from actual hunts and not be misled by those who make untrue, biased, emotional statements, such as the press, news media and the so-called "animal protection groups".

My statements can be verified by the hunters and the Fish & Game personnel, who participated in the hunt February 8, 1989.



Following a February 8 buffalo hunt, Dan Sellers poses with his kill.



Greater Yellowstone Coalition

EXHIBIT 3

DATE FEB 14, 1995

HB 262

February 14, 1995

Rep. Doug Wagner
House Fish & Game Committee
Capitol Station
Helena, MT 59620

Dear Rep. Wagner:

The Greater Yellowstone Coalition is in general support of House Bill 262, to provide for the hunting of wild bison. We have mixed feeling about this bill. We have consistently supported hunting as a legitimate method of controlling wild animal populations. We are not sure, however, whether bison hunting can occur in an ethical, traditional sporting manner.

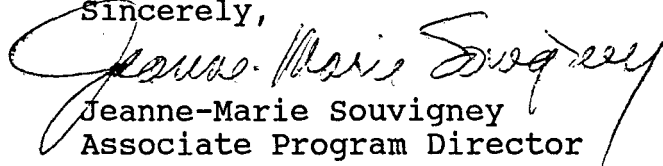
On the other hand, we suggest the way it's being done now is anything but ethical. We don't find it ethical to bait wild bison off public lands onto private lands so they can be shot by the Department of Livestock. We don't find it ethical, day after day, week after week, to turn private property north of the park into killing fields.

This insanity has to stop. Hunting may well be the more appropriate population control alternative. But let's recognize that that's all this is - a way to control the wild animal population, just like other hunting opportunities. It's misleading to say this is intended to control disease, because after all, we're not testing these animals first and then shooting the diseased ones. We're simply reducing the numbers, and that's appropriate.

At the very least the establishment of a hunt recognizes that what's going on now is not appropriate, that winter migration of bison to public lands outside the park is natural, just like it is for elk and other species. In fact, those national forest lands north of the park were specifically set aside during the early part of this century to accommodate wildlife migrating from the park during winter.

The challenge will be to craft a hunting opportunity that reflects the ethics of hunting. We believe this may best occur on the forested public lands around the park, and would urge you to consider this option.

Sincerely,


Jeanne-Marie Souvigney
Associate Program Director

DATE FEB 14, 1995

HB 262

THB262.HO

House Bill No. 262

February 14, 1995

Testimony presented by Pat Graham

Montana Fish, Wildlife & Parks

before the House Fish and Game Committee

We appreciate the strong interest some Montana hunters have in trying to be of the solution to bison management along the borders of Yellowstone National Park.

The management of bison that migrate from Yellowstone National Park into Montana is difficult for Montana because these animals do not "belong" to the state until they enter our jurisdiction. Before they arrive, they "belong" to the federal government. Two federal agencies - the National Park Service and the Animal and Plant Health Inspection Service - are responsible for those animals. For 30 years, those agencies have refused to cooperate. For the past five years, Montana Fish, Wildlife & Parks and the Department of Livestock have encouraged those agencies to work with us to develop a long-term solution to bison management. Their lack of cooperation has prevented us from completing the management plan that the 52nd Montana Legislature requested.

The conflicting policies of the two federal agencies present Montana with an unacceptable choice - we can either kill most of the bison that leave Yellowstone National Park or we can allow APHIS and other states to impose market sanctions against Montana cattle, at considerable expense to our livestock industry. We do not like it, but we chose to kill bison.

It was that very uncomfortable choice which lead Governor Racicot to file a law suit against the federal government to force resolution of the problem. The law suit reflects the Governor's clear and consistent advocacy of a long term, cooperative bison management plan. The law suit, however, represents only one of several decisive actions he has taken to encourage more cooperation between the federal agencies and to protect Montana's interests if they refuse.

Very recently the Governor held personal discussions with the Assistant Secretary of Agriculture and the Director of the National Park Service. He requested assurances from the Animal and Plant Health Inspection Service that Montana's brucellosis-free certification would be maintained and commitments from the National Park Service to provide a schedule of the actions that they will take to prevent bison from freely roaming into Montana.

I can tell you unequivocally, that the Governor was not satisfied with their initial response to his requests. He has therefore decided to keep his litigation moving forward. He has reaffirmed that he wants commitments to take actions prior to the winter of

1995/1996 under the Interim Plan. These actions would include temporary trapping and quarantine facilities to capture, test and when necessary, slaughter bison.

We ask the House Fish and Game Committee to support the Governor in these efforts. HB 262, as introduced would enlist the assistance of licensed citizens to kill bison. While we appreciate the frustration of delays in this process, this bill does not address the basic problem, the lack of cooperation between the National Park Service and the Animal and Plant Health Inspection Service. Moreover, public hunting would divert public attention away from the conflict between the two federal agencies and focus entirely on the killing of bison by private citizens. The resulting media spectacle would make it that much easier for the federal agencies to continue to ignore their responsibilities for bison management.

You are aware that the Animal and Plant Health Inspection Service has threatened to revoke Montana's brucellosis-free status. You also are aware that five other states have imposed brucellosis testing requirements on Montana cattle. Those actions have been taken because, with growing numbers of bison in the park and more animals migrating from the park, there also is growing concern that our state veterinarian may not be able to protect Montana cattle.

Public participation in the killing of bison would further compromise the state veterinarian's ability to control the numbers and distribution of bison that leave the park. We recognize and appreciate the desire of some Montana hunters to assist with the reduction of bison numbers. However, Montana cannot allow the additional risk to the livestock industry. The decision to kill bison is made in response to movements of the animals and actions are implemented on short notice.

Someday we believe the opportunity will be there to regulate a bison season that uses a format similar to the late Gardiner and Gallatin elk seasons. This will require greater tolerance for bison to leave the park. Which in turn requires addressing the brucellosis disease.

Recognizing the impatience that is growing as we try to move these two federal agencies forward, we propose an alternative. We offer amendments to HB 262 which would encourage the department to establish a public bison herd, using surplus bison originating from Yellowstone National Park and approved for release by the Montana State Veterinarian. This amendment is consistent with the Governor's desire to use capture, testing and quarantine as an alternative to shooting every bison that migrates from the park.

Amendments to House Bill No. 262
First Reading Copy

For the House Fish & Game Committee

Prepared by Fish, Wildlife and Parks
February 14, 1995

1. Title, line 5.
Following "AMENDING"
Insert: "SECTION 87-1-215, MCA and"

2. Title, line 6.
Strike: "REPEALING SECTION 87-1-215, MCA;"

3. Page 1, lines 10 through 28.
Strike: Section 1 in its entirety.
Insert:

"Section 1. Amend 87-1-215, MCA, as follows:

87-1-215. Wild buffalo as species in need of management -- policy -- department duties. (1) The legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that significant potential exists for the spread of contagious disease to persons or livestock in Montana and damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to designate wild, which have not been reduced to captivity, as a species in need of management and to set out specific departmental duties for management of the species.

(2) The department:

(a) is responsible for and shall develop rules to implement the management of wild buffalo or bison in this state that threaten persons or property other than through the transmission of contagious disease;

(b) shall evaluate and identify potential locations for public bison herds in Montana, comprised of bison which originated from Yellowstone National Park and which have been certified by the Montana State Veterinarian as disease-free animals; develop management plans for initiating and maintaining that herd; obtain local government and landowner concurrence in the plans; and, provide for public hunting of wild buffalo or bison through seasons approved by the Fish, Wildlife and Parks Commission;

(b c) shall develop rules to manage and reduce the number of wild buffalo or bison that leave Yellowstone National Park.

(3) The department of livestock shall within its statutory authority, regulate wild buffalo or bison in this state that pose a threat to persons through the transmission of contagious disease.

(4) The department of fish, wildlife, and parks and the department of livestock are strongly urged to enter into an agreement with the national park service for the long-term management of the Yellowstone national park herd. If the national park service does not proceed in good faith in a timely manner to enter a long-term management agreement that in the determination of

the department of fish, wildlife, and parks and the department of livestock responds adequately to the needs of Montana, the departments are strongly urged to take appropriate court action. The department of fish, wildlife, and parks and the department of livestock shall prepare a joint report to the ~~53rd~~ 55th legislature regarding the present state of bison management in Montana and any progress on an agreement for the long-term management of the Yellowstone national park herd."

4. Page 2, line 15.

Following: "buffalo"

Strike: "disease control"

5. Page 3, line 2.

Following: "buffalo"

Strike: "disease control"

6. Page 3, line 8.

Strike: Section 3 in its entirety.

7. Page 3, line 12.

Strike: Section 4, in its entirety.

Renumber: Subsequent section.



EXHIBIT 5
DATE FEB 14, 1995
262

February 10, 1995

OFFICERS

Mike Ware, President
406-756-6416

Dan Blomquist, Vice-President
406-892-1893

Terrie Blomquist, Secretary
406-892-1893

Lesa Longfield, Treasurer
406-892-5599

DIRECTORS

Dan Blomquist, Motor Bike/ATV
406-892-1893

Randy Helgath, Snowmobiling
406-862-3990

Joyce Hollopeter, Huckleberry
406-752-1334

Milt Hollopeter, Horseman
406-752-3754

Sheila Keller, Forest Management
406-756-7168

Richard Riley, Public Access
406-755-6273

Dean Sturz, Chamber of Commerce
406-892-4807

Peg Wagner, Communications/Editor
406-387-5535

Mike Ware, Wildlife
406-756-6416

Dale Williams, Hunting/Fishing
406-862-5314

CHAPTER GROUPS

MISSION VALLEY CHAPTER
Bob Bell, 406-676-5592

ROCKY MOUNTAIN CHAPTER
Duane Howlett, 406-626-5318

TRI-COUNTY CHAPTER
Lee Jacobson, 406-693-2319

BIG HOLE CHAPTER
Kay Keil, 406-267-3387

JAWBONE CHAPTER
Joanna Dixon, 406-547-3940

Representative Doug Wagner, Chairman
House Fish & Game Committee
Capitol Station
Helena, MT 59620

Dear Representative Wagner,

This testimony is on behalf of Montanan's For Multiple Use, a non-profit organization representing over 2500 multiple users. We request the following comments, concerning H.B. 262, "An Act Providing for Special Wild Buffalo Disease Control Licenses and for Regulation of Those Licenses" be entered in the record.

We agree with the assessment that the enhancement of Montana's hunting opportunities are of critical importance not only to the well being of the economy that is supported but most certainly to this family oriented event that has become a significant part of our **custom** and **culture**. It is in this regard, that the following comments are made:

1. Bison numbers in Yellowstone National Park are presently **exceeding** sound management goals set in accordance with available habitat. The bison that leave the park need to be controlled for a variety of reasons through a **regulated public harvest program**.
2. Montana has maintained a "**brucellosis-free**" status in cattle since 1984. The Montana Livestock Industry needs to be protected from the potential transmission of Brucellosis. If we do not maintain this status it will have significant economic implications to the livestock industry and to the State of Montana. The cost of Brucellosis testing will be excessive for our already struggling livestock owners. Montana livestock growers should not have to pay out of their own pockets for the mismanagement by our government officials. We believe this would just be another unfunded mandate.
3. Private property owners need to be afforded the same protection from property damage inflicted by bison outside the park as we give to those private property owners experiencing problems with deer or elk. It makes little sense to call special hunts for deer and elk as a management tool, while suggesting a negative benefit for the same type of activity for the bison.

4. The Park bison herd has become over populated to the point where the bison themselves are in grave danger of infecting themselves even further with brucellosis. The most sensible and economical way to control these herds from overpopulation and the further spread of the disease, is by letting the sportsman control them through a damage control harvest.
5. We believe the American people should still have an opportunity to harvest bison by drawing for permits as they did in the past. This would eliminate the cost for the Department of Fish, Wildlife & Parks and the National Park Service in harvesting, field dressing, and removal. Not only would this help eliminate additional costs but fees from permits and trophy charges would assist in continuation of sound management practices. Many businesses would benefit by this such as meat processors, motels, restaurants, gas stations, sporting good stores, grocery stores, transportation, taxidermists, etc... We should be strengthening Montana's economy, instead of weakening it. The Fish, Wildlife & Parks would still have control of how many bison would be harvested, so it is not like they would face the threat of extinction.
6. Many people who oppose the bison hunt, make the comment that this really is not a hunt..."the bison are easy prey for sportsman"... We believe this rests in the eyes of the beholder. Not all sportsman participate in our sport for the chase, but instead their participation is measured by the amount of meat that can be obtained for the family table. This certainly measures up to that expectation.
7. We, the citizens of Montana, should be granted the opportunity to regain our traditional right to hunt bison as many of our ancestors did. You, our elected officials, can give back to us the hunting heritage we should have never lost in the first place. It is time, for Montanans, to show the animal rights activists they are no longer going to take away our **custom** and **culture**. Over hundreds of years we have fought for our freedom and beliefs. We can no longer be bullied by a bunch of misguided people that don't understand the proper management of our wildlife.

We appreciate the opportunity to comment before this committee on the issue at hand.

Sincerely,



Dale Williams
Hunting/Fish Director

cc: House Fish & Game Committee Members

1009

ORGANIZATION AND OPERATION

87-1-221

Cross-References

Cooperative agreements, 23-1-107, Title 23, ch. 1, part 2; 87-5-404.
87-1-303, 87-5-108.

87-1-211. Repealed. Sec. 3, Ch. 340, L. 1985, and Sec. 2, Ch. 648, L. 1985.

History: En. Sec. 19, Ch. 193, L. 1921; re-en. Sec. 3668, R.C.M. 1921; re-en. Sec. 3668, R.C.M. 1935; amd. Sec. 1, Ch. 186, L. 1969; amd. Sec. 7, Ch. 417, L. 1977; R.C.M. 1947, 26-119.

87-1-212. Terminated. Sec. 6, Ch. 234, L. 1991.

History: En. Sec. 1, Ch. 234, L. 1991.

87-1-213 and 87-1-214 reserved.

EXHIBIT _____

DATE _____

87-1-215. Wild buffalo as species in need of management — policy — department duties. (1) The legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that significant potential exists for the spread of contagious disease to persons or livestock in Montana and damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to designate wild buffalo or bison, which have not been reduced to captivity, as a species in need of management and to set out specific departmental duties for management of the species.

(2) The department:

(a) is responsible for and shall develop rules to implement the management of wild buffalo or bison in this state that threaten persons or property other than through the transmission of contagious disease;

(b) shall develop rules to manage and reduce the number of wild buffalo or bison that leave Yellowstone national park.

(3) The department of livestock shall, within its statutory authority, regulate wild buffalo or bison in this state that pose a threat to persons or livestock in Montana through the transmission of contagious disease.

(4) The department of fish, wildlife, and parks and the department of livestock are strongly urged to enter into an agreement with the national park service for the long-term management of the Yellowstone national park herd. If the national park service does not proceed in good faith in a timely manner to enter a long-term management agreement that in the determination of the department of fish, wildlife, and parks and the department of livestock responds adequately to the needs of Montana, the departments are strongly urged to take appropriate court action. The department of fish, wildlife, and parks and the department of livestock shall prepare a joint report to the 53rd legislature regarding the present state of bison management in Montana and any progress on an agreement for the long-term management of the Yellowstone national park herd.

History: En. Sec. 2, Ch. 401, L. 1991.

Cross-References

Nongame and endangered species — legislative policy, 87-5-103.

87-1-216 through 87-1-220 reserved.

87-1-221. Acquisition, importation, and propagation of fish and game — waterfowl food. The department may:

(1) acquire by gift, purchase, capture, or otherwise any fish, game, game birds, or animals for propagation, experimental, or scientific purposes;

EXHIBIT 7
DATE FEB 14, 1995
HB: 486

DEAR MONTANA STATE LEGISLATOR:

WHENEVER WE LAKE COUNTY SPORTSMEN COME
OVER TO YOUR HOME COUNTY TO HUNT AND FISH AND TAKE
YOUR RESOURCES OF FISH, DEER, ELK, ANTELOPE, AND
GAME BIRDS, ...GUESS!! WHO RECEIVES EVERY RED CENT
OF OUR CONSERVATION PERMIT MONEY(\$6) AND OUR BIRD
STAMP MONEY(\$12) ?? WELL LET ME TELL YOU THAT IT'S
NOT THE MONTANA DEPT., OF FWP! AND IT'S NOT YOUR
COUNTY! IT'S THE VERY WEALTHY CONFEDERATED SALISH
AND KOOTENAI TRIBE OVER ON THE FLATHEAD RESERVATION!!
THANKS TO THE STATE/TRIBAL AGREEMENT WHICH NEEDS
TO BE AMENDED!

PLEASE SUPPORT A BILL THAT WILL AMEND THE
AGREEMENT AND PUT THAT MONEY WHERE IT RIGHTFULLY
BELONGS. THANK YOU!

Del Palmer

Del Palmer
P. O. Box 55
Charlo, MT 59824

HB 486 in favor

The 1990 State/Tribal hunting pact has NOT gone well as reported by the State F.W.P. in the WESTER NEWS (December 23). If the state law officials cannot be trusted in reporting the truth on this case then their integrity must also be questioned in other areas as well.

The pact has some serious flaws that have been kept secret as well as the defeats the ~~Courts~~ ^{jury} have handed the state in the past three years.

Since 1990 the agreement has been challenged four times. The first three the state has lost and the fourth is pending. Why is this being kept secret?

In 1994 no citations were issued for failure to possess the State/Tribal license even though these alleged violations were reported, not a single law officer responded.

All state, federal and private lands within the exterior boundaries of the reservation are held in fee and are not tribal or reservation lands. The federal and state lands were purchased with sportsman dollars for wildlife habitat and public access and NOT for tribal gain.

All conservation fees, fish and bird stamp funds from the sale of reservation licenses are remitted to the tribe as a provision of the agreement.

com 1
NON-MEMBER residents who possess the reservation license which is honored statewide may hunt Sage Grouse, Pintail, Ringneck and Hungarian hundreds of miles from the reservation while the tribe collects the fees.

^
Montana Law 87-710 mandates that all fees from the sale of licenses shall be deposited in the state general fund to the credit of F.W.P. SPECIFICALLY for departmental use ONLY.

These are a few good reasons to repeal S.B. 446 and terminate the state/tribal agreement since the courts have ruled it UNENFORCEABLE.

Del Palmer
PO Box 55

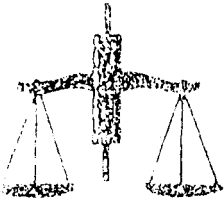
Charlo, Montana 59824

We ask only for a degree of fairness

com

Farm.

MC-1



James A. Manley

Attorney at Law

201 Fourth Avenue East
Polson, Montana 59860
Telephone (406) 883-6285

EXHIBIT 7A
DATE FEB 14, 1995
HB 486

January 20, 1994.

Delbert Palmer
Box 55
Charlo, MT 59824

Dear Del:

I found the statutes which certainly appear to prohibit use of any hunting license fees for any purposes other than use by the Department of Fish, Wildlife and Parks. Enclosed is a copy of M.C.A. 87-1-708, and 87-1-710. This sure seems to be inconsistent with the State-Tribal agreement, which diverts all of the hunting license fees to the Tribes.

Sincerely,

James A. Manley
JAM/jb

cc: Ken Nordyke
John Cramer

unless the projects created or established shall wholly and permanently belong to the state of Montana, except as provided in 87-1-709. Nothing contained herein shall prevent the department from entering into cooperative agreements on federally owned lands as provided for herein.

History: (1)En. Sec. 1, Ch. 167, L. 1941; Sec. 26-1122, R.C.M. 1947; (2)En. Sec. 2, Ch. 167, L. 1941; amd. Sec. 1, Ch. 80, L. 1951; amd. Sec. 13, Ch. 417, L. 1977; Sec. 26-1123, R.C.M. 1947; R.C.M. 1947, 26-1122, 26-1123.

87-1-709. Cooperation with United States for wildlife restoration. The department, in the name of the state and with the approval of the governor, shall have the power to enter into the cooperative agreements on federally owned lands with the government of the United States or some department or bureau thereof or with an individual or individuals, private corporations, or partnerships for the purpose of carrying on any wildlife restoration project and established under the provisions of said Pittman Robertson Act of the congress of the United States and shall have the power to acquire by purchase, either for cash or upon installments, or lease or by gift or devise, either individually or in conjunction with the government of the United States or some department or bureau thereof, such lands or other property or interests therein as may be necessary for the purpose of carrying on any wildlife restoration project created and established under the provisions of said Pittman-Robertson Act of the congress of the United States. The state of Montana does reserve to itself, acting through its legislature, the right to direct the department to abandon any wildlife restoration projects created and established as the state of Montana may in its judgment think proper, provided the department shall have no power to exercise the right of eminent domain to condemn or acquire property under 87-1-708 through 87-1-710.

History: En. Sec. 3, Ch. 167, L. 1941; amd. Sec. 2, Ch. 80, L. 1951; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1124.

87-1-710. Use of hunters' license fees for department purposes only. In accordance with the other requirement of said act of congress, it shall be the law of this state, so long as this assent shall be unrepealed, that the license fees paid by hunters in the state of Montana shall be used or taken for any other purpose than the administration and use of the department.

History: En. Sec. 4, Ch. 167, L. 1941; R.C.M. 1947, 26-1125.

87-1-711. Acquisition of land by United States for bison and other big game animals. Consent of the state of Montana is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water or of land and water in section 31, township 18 north, range 20 west, Lake County, Montana, and section 36, township 18 north, range 21 west, Sanders County, Montana, excepting the Northern Pacific railway and state of Montana lands within said sections, as the United States may deem necessary for the establishment of an exhibition park for bison and other big game animals, reserving, however, to the state of Montana full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of applicable federal regulations.

History: En. Sec. 1, Ch. 209, L. 1953; R.C.M. 1947, 26-1126.

maintenance, protection, and control thereof by the United States under the terms of said act of congress.

History: En. Sec. 1, Ch. 227, L. 1953; R.C.M. 1947, 26-1108.1.

Cross-References

Interference with canal or ditch easements, 70-17:112.

EXHIBIT 7A

DATE 2-14-95

X HB 486

87-1-708. Assent to Pittman-Robertson Act — authority of department. (1) The congress of the United States having passed an act which was approved on September 2, 1937, and which is known as 50 Federal Statutes 917 of the acts of congress, wherein it is, among other things, provided that "no money apportioned under this chapter to any state shall be expended therein until its legislature or other state agency authorized by the state constitution to make laws governing the conservation of wildlife shall have assented to the provisions of this chapter and shall have passed laws for the conservation of wildlife, which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said department", and since the moneys referred to in the act of congress are collected in part from the hunters of this state and will not be returned to the state of Montana except the state of Montana does assent to the act, now, therefore, the state of Montana does assent to the provisions of said act of congress which is commonly known as the Pittman-Robertson bill, but such assent is with the express reservations enumerated in this section, 87-1-709, and 87-1-710. The state of Montana does not by the passage of these sections or by the consent herein given surrender to the congress of the United States or any department of the government of the United States any of those rights which are retained by the people of the state of Montana or the state of Montana and which are guaranteed to them by the 9th and 10th amendments to the constitution of the United States, nor shall this section, 87-1-709, and 87-1-710 in any manner or at all be construed or held to be the state of Montana's consent to amending the constitution of the United States in any manner or at all relative to its rights. Provided, however, that nothing herein shall be construed as giving consent to the purchase or acquisition of lands by the United States or by any of its departments or officers for establishing migratory bird sanctuaries under the Migratory Bird Conservation Act of the United States or otherwise and that the title to all lands acquired under the provisions of this section, 87-1-709, and 87-1-710 for wildlife projects and projects constructed thereon shall be and remain in the state of Montana.

(2) The department is hereby authorized to perform such acts as may be necessary to the establishment and conduct of wildlife projects as defined and authorized by said act of congress, provided every project initiated under the provisions of this section, 87-1-709, and 87-1-710 shall be under the supervision of the department, and no laws or rules or regulations shall be passed, made, or established governing the game or fur-bearing animals or the taking or capturing of the same in any such projects except they be in conformity with the laws of the state of Montana or rules promulgated by the department. The title to all lands acquired or projects created from lands purchased or acquired by deed or gift shall vest in, be, and remain in the state of Montana and shall be operated and maintained by it in accordance with the laws of the state of Montana. The department shall have no power to accept benefits

department when the person having the property in possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the person charged with violation of the law is found guilty of or forfeits bond for violation of the fish and game laws of the state, the money received for the sale of seized property must be paid over to the state treasurer and be deposited to the credit of the fish and game fund. If the party from whom the property was taken is not found guilty of any violation of the fish and game laws of this state, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or portions thereof were taken. An officer is not liable for any damage on account of any search, examination, seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals, game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as required by 87-1-511, must be paid from the fish and game fund.

History: En. Sec. 49, Ch. 173, L. 1917; re-en. Sec. 3728, R.C.M. 1921; re-en. Sec. 3728, R.C.M. 1935; R.C.M. 1947, 26-508; amd. Sec. 3, Ch. 120, L. 1985; amd. Sec. 1, Ch. 170, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 170 in first sentence substituted "retained and accounted for by the department when" for "paid over to the court before whom" and in second sentence, after "guilty of", inserted "or forfeits bond"; and

made minor changes in style. Amendment effective July 1, 1993.

Cross-References

Use of fish and game money, 87-1-201, 87-1-601.

87-1-514. Record of confiscated property. The director and wardens shall keep a complete record of all property confiscated because of a violation of the game and fish laws, showing in detail a description of the property, the person from whom it was confiscated, the price received for it upon public sale, and the disposition of the money.

History: En. Sec. 50, Ch. 173, L. 1917; re-en. Sec. 3729, R.C.M. 1921; re-en. Sec. 3729, R.C.M. 1935; amd. Sec. 36, Ch. 511, L. 1973; R.C.M. 1947, 26-509.

Part 6

Finance

87-1-601. Use of fish and game money. (1) (a) Except as provided in subsection (7), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from damages collected for violations of the fish and game laws of this state, from appropriations, or received by the department from any other state source must be turned over to the state treasurer and placed by him in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

- (i) the general license account;
- (ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-412, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) That money must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. That money must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in this code means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsection (7), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, relating to violations of state fish and game laws under Title 87 must be deposited by the state treasurer and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) Money received by the department from the sale of surplus real property; exploration or development of oil, gas, or mineral deposits from lands acquired by the department except royalties or other compensation based on production; and from leases of interests in department real property not contemplated at the time of acquisition must be deposited in an account within the nonexpendable trust fund of the state treasury. The interest derived from the fund, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department, and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is not subject to the deposit requirements of 17-6-105. The department shall deposit license drawing application money within a reasonable time after receipt.

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited as follows:

(a) 50% in an account for use by the department for the enforcement of 77-1-801, 77-1-806, and rules adopted under 77-1-804; and

(b) 50% in the state lands recreational use account established by 77-1-808 for use by the department of state lands in the management of state lands.

History: En. Sec. 21, Ch. 193, L. 1921; re-en. Sec. 3670, R.C.M. 1921; amd. Sec. 32, Ch. 59, L. 1927; amd. Sec. 1, Ch. 53, L. 1933; amd. Sec. 2, Ch. 114, L. 1945; amd. Sec. 159, Ch. 147, L. 1963; amd. Sec. 17, Ch. 511, L. 1973; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-121; amd. Sec. 2, Ch. 649, L. 1979; amd. Sec. 1, Ch. 388, L. 1981; amd. Sec. 45, Ch. 281, L. 1983; amd. Sec. 62, Ch. 557, L. 1987; amd. Sec. 1, Ch. 41, L. 1991; amd. Sec. 3, Ch. 339, L. 1991; amd. Sec. 10, Ch. 609, L. 1991.

February 11, 1995

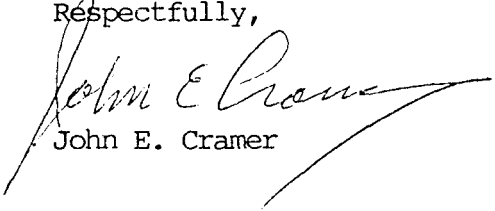
I support HB 486 and believe that the Agreement should be changed so that the only requirement for nonmembers to hunt and fish on the reservation would be the regular State of Montana hunting and fishing licenses with appropriate federal and state stamps. The State of Montana would pay the Tribes a sum of money each year, the amount of which would be negotiated by the Tribes and State annually during the term of the agreement. This is for the privilege of hunting on Tribal lands.

The advantages of these changes are:

- 1) Would require only one license; presently, three are required.
- 2) Would allow all state sportsmen to participate in the privilege of hunting on the reservation and share in the cost of that privilege. At the present time, all state sportsmen do participate in the many leases, land purchase, block management and conservation easements that the Department has throughout the state.
- 3) Would solve the problem of a landowner hunting on his own property without a Tribal permit.
- 4) Would satisfy the requirement under the federal Pittman-Robinson Act that all license fees collected from state citizens be spent within the Montana Department of Fish, Wildlife & Parks and for specific activities.
- 5) Could relieve the requirement that the Tribes spend the money on their reservation-wide fish and wildlife program. Accountability would no longer be a problem.
- 6) Would eliminate the possibility of the agreement being unconstitutional by treating all State citizens the same, regardless of where they live within the State of Montana.

Please support HB 486.

Respectfully,


John E. Cramer

391 LaBella Lane
Polson, MT 59860

Phone: 849-5461

EXHIBIT 8A
DATE FEB 14, 1995
HB 486

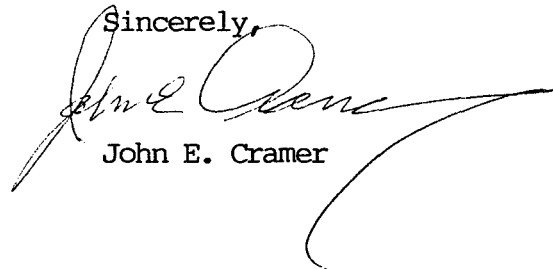
391 LaBella Lane
Polson, MT 59860
February 11, 1995

Representative Doug Wagner
Capitol Station
Helena, MT 59601

Dear Doug:

Please find enclosed statements in support of HB 486. We feel that Montana Code 87-1-228 needs to be amended and we would like your support. We plan to be at the hearing on Tuesday, February 14 and would like the opportunity to discuss this issue with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "John E. Cramer", written over a horizontal line.

John E. Cramer

Exhibit 8A: includes a petition with 24 pages of signatures. The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone is 444-2694.

EXHIBIT 9
DATE FEB 14, 1995
HB 486

DEAR COMMITTEE MEMBER:

THE CRUX OF THIS STATEMENT IS
"FAIRNESS".

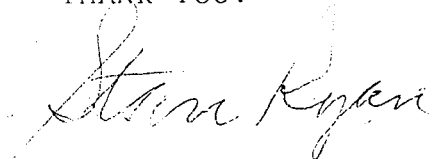
IT IS A REQUEST FOR YOUR SUPPORT OF A BILL
(HB486) TO AMEND 446 THEREBY ACHIEVING "FAIRNESS".

IF YOU OR I SHOULD WISH TO HUNT ON TRIBAL
LAND WE SHOULD CERTAINLY GET TRIBAL PERMISSION: OBSERVE
ALL TRIBAL REGULATIONS: PAY TRIBAL FEES; BUY REQUIRED
TRIBAL PERMITS, LICENSES, AND TRIBAL STAMPS; ETC, AND
THE MONIES SHOULD DEFINITELY BE TRIBAL MONEY TO KEEP.....
AND IF YOU OR I WISH TO HUNT UPON PRIVATE, OR STATE,
OR FEDERAL LAND, THEN WE SHOULD, OF COURSE, AS MONTANA
CITIZENS, BUY THE REGULAR UNIFORM MONTANA PERMITS,
LICENSES, ETC.

THAT IS "FAIRNESS."

THANK YOU.

Stan Ryan
West Shore Route
Polson, MT 59860



Ph: 849-5405

EXHIBIT 10
DATE FEB 14, 1995
HB 486

HOUSE OF REPRESENTATIVES
54TH LEGISLATURE

HOUSE FISH & GAME

COMMITTEE

WITNESS STATEMENT

Please Print

NAME Dan Sellers BILL NO. 484

ADDRESS Rt. 2 DATE 2-14-95

WHOM DO YOU REPRESENT? average citizen

SUPPORT _____ OPPOSE _____ AMEND (totally cancel
agreement)

COMMENTS: For making Indians & non-
Indians abide by same ^{state} regulations
laws and licence fees.

Treat us as ~~equal~~ equal citizens.
or separate into to self supporting
countries.

EXHIBIT 11
DATE FEB 14, 1995
HB 486

Ervin Davis

604 N. Main
Charlo, MT 59824

TEL 406-644-2740
FAX 406-644-2740

DATE: 02/13/95

TIME: 17:13

TO: Rep. Rick Jore
COMPANY: House of Representatives
FROM: Ervin Davis
COMPANY:

Rep. Jore: - Testimony in FAVOR of HB 486
It is unmentionable how any State agency could cede jurisdiction and control of Federal, State and, especially privately-owned lands, to a group of non tax-paying Tribal citizens and then require those of us non-Tribal citizens most directly affected by that control to yield to Tribal jurisdiction. The courts have indicated that the current "agreement" will not work. It might, if the agreement applied only to Tribally-owned lands and NOT to Federagi, State nor private lands. I ask for your support of HB 486. That current agreement has compromised the citizenship of non-Tribal members. SUPPORT HB 486!

LAKE COUNTY COMMISSIONERS

106 4th Ave East
Polson, MT 59860
Phone 406-883-7204
Fax 406-883-7283

EXHIBIT 12

DATE FEB 14, 1995

HB 486

Feb. 14, 1995

Chairman Doug Wagner
House Fish & Game Committee
Capitol Station
Helena, MT 59620

Dear Chairman Wagner:

The Lake County Board of Commissioners hereby support H.B. 486.

We believe this agreement has simply not been accepted by the majority of Lake County residents.

The Hunting and Fishing Agreement forces a Montana citizen to buy a particular license where the money for that license goes to the Tribe. The Tribe doesn't set this money up in a separate account and is not required to be accountable the same as the state or counties. There is reason to believe that money is not being spent for things required under the Agreement yet we cannot get our state officials to audit this account to determine how much revenue is generated and where it goes.

A non-member citizen of Montana and Lake County is presently unable to buy a Montana license if he/she choses to hunt only on private, State or Federal grounds as proposed in H.B. 486.

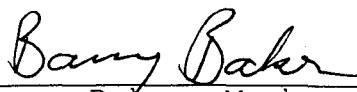
Ironically 80% of Lake County's population is non-Tribal and are forced to abide by regulations in this Agreement from which a Tribal member is exempt. Examples, a non-member can only shoot three (3) pheasants while a member has no limits. A member can get a commercial fishing license, a non-member may not.

There is no equality in this agreement. H.B. 468 is a step in the right direction yet does not go far enough to protect the rights of 80% of Lake County. We urge you to vote yes on H.B. 468.

BOARD OF LAKE COUNTY COMMISSIONERS


Dave Stipe, Chairman


Mike Hutchin, Member


Barry Baker, Member

jd

EXHIBIT 13
DATE FEB 14, 1995
HB 486

February 15, 1995

Chairman Wagner;

312-1a

WE SUPPORT HB 486.

Scott and Jackie Kerr
Moiese, Montana
644-2809Dick and Pat Kerr
Moiese, Montana
644-2387Mark and Dianne Gilliland
Moiese, Montana
644-2520Dean and Mae Stipe
Moiese, Montana
644-2533Cory and Kathy Richwine
Ronan, Montana
676-3177Vern and Audrey Hicks
Ronan, Montana
676-8376David Paul
St. Ignatious, Montana
745-4781Dan and Laurlie Nelson
Ronan, Montana
675-0567Todd and Ghada Hicks
Eabio,, Montana
676-0514Jim and Barb Ball
Ronan, Montana
676-3451Rupert and Charlotte Bentley
Ronan, Montana
676-2581Phil and Kathy Sykes
Moiese, Montana
644-2519Steve and Debbie Miller
Ronan, Montana
676-2011Glen and Ardith McDorman
Ronan, Montana
676-8003Roland and Lisa Morris
Moiese, Montana
644-2403Cal and Alice Lindburg
Ronan, montana
676-8450

Feb. 16 1995 11:03AM P5

PAGE 2

Rep. Wagner, HS (80) 80

February 16, 1995

Chairman Wagner;

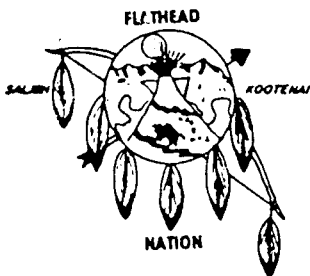
WE SUPPORT HB 486

Doug and Cheryl Hicks
Ronan, Montana
676-8376

Bonnie and Lauren Clary
Moiese, Montana
644-2259

D. L. Cole
Dixon, Montana
246-3523

Marvin and Della Bauer
Charlo, Montana
644-2793



THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION

P.O. Box 278
Pablo, Montana 59855
(406) 675-2700
FAX (406) 675-2806



Joseph E. Dupuis - Executive Secretary
Vern L. Clairmont - Executive Treasurer
Bernice Hewankorn - Sergeant-at-Arms

EXHIBIT 14
DATE FEB 14, 1995
HB 486

TRIBAL COUNCIL MEMBERS:
Michael T. "Mickey" Pablo - Chairman
Rhonda R. Swaney - Vice Chairwoman
Carole McCrea - Secretary
Lloyd Irvine - Treasurer
Louis Adams
Elmer "Sonny" Morigeau Jr.
Henry "Hank" Baylor
D. Fred Matt
Donald "Donny" Dupuis
Mary Lefthand

TESTIMONY OF

RHONDA R. SWANEY, VICE-CHAIRWOMAN

THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD INDIAN RESERVATION

IN OPPOSITION TO

HOUSE BILL 486

A BILL TO RESCIND THE 1994 TRIBAL-STATE HUNTING
AND FISHING AGREEMENT; RENEGOTIATE TERMS

BEFORE THE HOUSE FISH AND GAME COMMITTEE

THE HONORABLE DOUG WAGNER, CHAIRMAN

FEBRUARY 14, 1995

The Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation oppose the letter and the spirit of House Bill 486. The bill seeks to destroy what took so long to build - a functioning and beneficial inter-governmental relationship between the State and the Tribes. Some of the present Committee members were instrumental in the passage of the legislation that paved the way for the State to sign the Agreement. That was several sessions ago. Only three months ago Governor Marc Racicot and Tribal Chairman Michael Pablo signed into law the second four-year term for the Agreement.

The Agreement represents the good faith efforts of the Tribes and State to resolve a very complex legal and jurisdictional issue - the interplay of the Hellgate Treaty with interests of non-Indians on the Reservation. During the first three years of the Agreement, an average of over 20,000 permits and stamps to fish and hunt birds on the Flathead Indian Reservation have been purchased by non-members. Sales in 1994 surpass significantly that figure. Clearly, quite a few people believe the Agreement is working well. Contrast those thousands of satisfied customers with the few diehard opponents to the Agreement and the picture becomes pretty clear. Those few vocal opponents have proven time and again that they simply cannot accept the fact that the Tribes are here to stay (and have been for thousands of years). Nor can they accept the fact that Tribal governments, as much as State governments, must be dealt with fairly.

The Agreement represents more than just the honest efforts of the State and the Tribes to develop a system of laws that benefit the resources and sportspersons. It also represents a settlement of federal litigation over hunting and fishing issues on the Reservation. Should the Agreement be terminated, both parties could be looking at resubmersion into a tremendously expensive, divisive lawsuit that could leave the natural resources and sportspersons in a sea of dangerous uncertainty. Prior to the Agreement, there was serious doubt that Salish-Kootenai "Indian country," as defined at 18 U.S.C. § 1153, would be open to hunting and fishing at all. The existence of the Agreement has removed that specter to the recesses of institutional memory.

Recently the Tribes and State published the "State-Tribal 1990-1994 Progress Report" on the Cooperative Agreement. It is our understanding that copies have been provided to the Committee. If not, please let us know and we will expedite delivery. We heartily recommend that Committee members review that bipartisan report for a factual demonstration of how beneficial the Agreement is for sound management of natural resources that know no jurisdictional boundaries, yet whose existence is governed by them. Please don't let a good thing die because of a vocal few.

Sincerely,

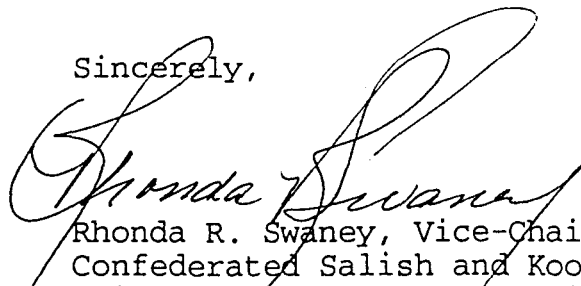

Rhonda R. Swaney, Vice-Chairwoman
Confederated Salish and Kootenai
Tribes of the Flathead Nation

EXHIBIT _____

DATE _____

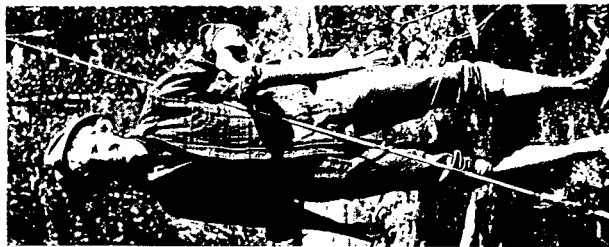
HB _____



STATE-TRIBAL 1990-1994 Progress Report COOPERATIVE AGREEMENT



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



A Report
on Bird
Hunting,
Fishing and
Recreation
on the
Flathead
Reservation



EXHIBIT 15
DATE FEB 14, 1995
HB 486

THB486.HO

House Bill No. 486
February 14, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

We understand the frustrations that are experienced by non-Indian people who live on their own land, within the exterior boundary of the Flathead Reservation, or within the exterior boundary of any other reservation in this country. They live in and are citizens of the United States and the State of Montana. However, in some instances they also may be subject to regulation by tribal government.

The Department experiences similar frustrations when we attempt to regulate the state's fish and wildlife on lands where a tribal government also has or claims to have jurisdiction.

By treaty, negotiated with the federal government before Montana was a state, the Confederated Salish and Kootenai Tribes are pursuant to that treaty, recognized as a sovereign nation. In recent years, the federal government and the courts have supported and encouraged the sovereign nation concept. We cannot change the language in the Hellgate Treaty nor can we change the fact that this treaty defines the relationship between the Tribes and the United States. We as a state respect and recognize the sovereignty of the Flathead Nation.

We also cannot change history. Many lands have become fee lands, rightfully owned by non-Indians, because the federal government allowed and encouraged non-Indians to homestead within the boundaries of defined reservations. The Tribe may have lost land, but did under the law not necessarily lose all jurisdiction over resources that might exist on those lands.

Throughout the negotiations on the cooperative agreement, the Department and Tribes concentrated on two mutual objectives while respecting the jurisdiction of the Tribes and the State of Montana - to protect the resource and to simplify regulations for sportsmen and sportswomen. The joint agreement attempts to further those goals. We now have four successful license years under the joint agreement. Hunters and anglers no longer have to deal with the confusion of two licenses and two sets of regulations by two different governments, both claiming jurisdiction. There is now one joint license and one set of commonly adopted regulations, along with uniform enforcement. And, the resource itself is the beneficiary.

We understand that House Bill 486 has emerged from the frustrations caused by dual jurisdictions. However, unilaterally rescinding

this agreement, as this bill proposes, will almost assuredly increase those frustrations. Here's why.

First and foremost, this agreement was developed to forestall litigation. It was the considered opinion of then Attorney General Marc Racicot and Governor Stan Stephens that the citizens of Montana stood to gain more from a negotiated agreement than from a solution imposed by a court sitting in San Francisco or Washington, D. C. We negotiated this agreement, in good faith with the Salish and Kootenai people, because we and they agree that cooperation is essential to responsible management of fish and wildlife resources within the exterior boundaries of their reservation.

Second, adoption of this bill would eliminate significant benefits that the Agreement brings to citizens of Montana:

1. This agreement provides for the best possible stewardship of the fish and wildlife resources that can be achieved without the heavy and unpredictable hand of the courts.
2. Our FWP wardens are among the strongest and most articulate supporters of this agreement. Under its authority, regulations, bag limits, seasons, responsibilities, and privileges are clear, precise and predictable. That makes their job of informing and educating the public as well as enforcing the regulations much easier.
3. Montanans who hunt and fish are the biggest beneficiaries of this agreement. It is thus no coincidence that the rod and gun clubs in Lake County and elsewhere supported renewal of the agreement.
4. There is an atmosphere of discussion and mutual assistance resulting from this agreement which is incalculable:

- *We enjoy cooperative efforts on Kerr Dam mitigation efforts such as development of joint hatcheries.

- *We have agreed to mutual bag limits and seasons in the management of an exceptional herd of big horn sheep containing trophy rams;

- *The Tribes have worked with us to oppose the draw downs in Hungry Horse and Libby dams to preserve important Montana interests;

- *The Tribes and the State work cooperatively on fisheries projects on Flathead lake that benefit everyone who fishes there.

There are few other examples in state-tribal relations where such productive and worthwhile dialogue and team work occurs. The beneficiaries are those who hunt and fish and those who reside on the reservation.

I readily admit that the agreement is not without its problems. We have on successive occasions cited individuals for violation of the

EXHIBIT 16
DATE 2-14-95
HB 486

agreement and juries have not, as yet, brought convictions. This illustrates that relations between tribal and non-tribal members need improvement. We are going to be neighbors for a long, long, time and that improvement will come, I believe. The agreement itself was not easily negotiated nor approved. The effort required the development of mutual respect and trust forged by government-to-government interaction.

Passage of HB 486 will not promote those relationships. It will undermine the working cooperation that the State and the Tribes have developed in fish and wildlife resource issues. The agreement works, it has stimulated other positive mutual undertakings and it should be left in place. I urge you to vote no on this bill.

EXHIBIT 17
DATE FEB 14, 1995
HB 451

Representative Jim Elliott
House of Representative
Montana Capital
Helena Montana 59620

Dear Jim:

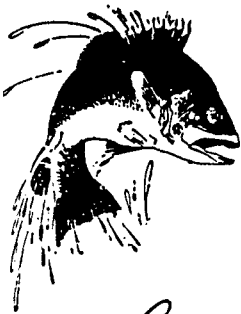
I have been directed as secretary
of Eastern Sanders Co. Sportsman Club
to give our club support to Bill 451.

It is our belief that very few lions
would be taken but it would give the
average sportsman a chance!

In our country it would only
affect the lions who have expanded into
areas where people are now living. Now
the Fish & game are taking these lions
so it won't affect Houndmen or outfitters.

I'm sorry I can't be at the
hearing to support this bill

Sincerely,
Fred Carill
Secretary



Noxon Rod & Gun Club

BOX 1491
NOXON, MONTANA 59853



Dec. 30, 1994

Rep Jim Elliot

We would like to have the Laws
on Mountain Lions changed so
we can

1. Kill a Lion during General Hunting
Season for Deer and Elk. (No dogs)
Maybe even the Archery season also???
2. Buy a Mountain Lion Permit across
the counter just like we do for
Deer + Elk

President
Robert F. Flansaar

This is the cover letter for
HB 45-1

Robert 2-14-1995

House Bill No. 451
February 14, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

Montana Fish, Wildlife & Parks is currently in the process of assessing management of mountain lions through the development of an Environmental Impact Statement (EIS). The EIS will address a variety of management options, including the hunting of lions during the general big game season.

Mountain lion numbers have greatly increased in recent years along with the deer population. The Commission has doubled the quota on mountain lion harvest in the last three years to address concerns of too many lions. Those increases thought have been based on the best available data to target harvest in specific areas to avoid adversely affecting the population of lions. We are building a sound and defensible basis to manage these magnificent creatures.

Current law prohibits the taking of lactating female or a female with kittens. In Montana the majority of lions taken are treed prior to being killed. This allows the hunter the opportunity to inspect the animal to determine sex. It also allows females to be inspected to determine if they are lactating or not. Trailing with dogs prior to treeing allows the inspection of tracks to determine if the animal is alone or travelling with young.

Incidental take during the general season would not allow for this type inspection to be made prior to harvesting an animal and would result in lactating female or females with dependent young being taken. Lions are unique in comparison to other large game animals because females can give birth throughout the year not just in one season.

Use of hounds is allowed during any open mountain lion season, it would not be recommended to allow such pursuit to take place during the general big game season when other hunters are afield.

The change proposed in this bill is one of many being reviewed as part of the Mountain Lion EIS. This process includes significant public involvement. We urge you to let that process take its course.

THB464.HP

House Bill No. 464
February 14, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

Montana law prohibits stocking fish into any water of the state unless permitted by my Department. One commonly issued permit is for private fish ponds. A primary purpose of this law has been to prevent private parties from capturing and using public waters for personal use and to protect public fisheries against the introduction of exotic fish and/or diseases.

At the time this law was enacted there were relatively few private ponds and even fewer sources for fish. While the law initially met its purpose, there is a need for changes to meet current conditions. The demand for and construction of private ponds has increased significantly during the past decade. This increase has followed the proliferation of subdivisions and ranchettes across much of Montana. During the past two years alone FWP has processed approximately 400 new pond permit applications. This is compared to between 25 to 40 annually in previous years.

When FWP receives an application for a private pond license, an inspection trip is made to the site where a Department representative meets with the owner to verify ownership and to assure the proposed pond is an artificial body of water and not a public resource. Where necessary, the FWP may condition the permit as to the species of fish allowed for stocking and possible controls to reduce the likelihood that pond fish will escape to public waters. The particular species recommended for stocking are usually those that are compatible with fish species existing in the drainage. At the current rate of approximately 200 private fish ponds per year, the workload is substantial.

While the law has served to prevent private parties from capturing public waterways, there remains the possibility of private ponds eventually containing undesirable fish species or diseased fish. The vast majority of pond owners willingly work with FWP to assure their ponds are properly permitted and stocked. Occasionally persons have developed and stocked their ponds without knowledge of the law or in disregard for the law. We believe these cases are relatively few, but it is important for the Department to have the authority to correct such problems where they exist.

The recent discovery of whirling disease in Montana underscores the importance of maintaining a high standard for public and private hatchery production and the waters stocked with fish. We are in the process of testing all private hatcheries in Montana for whirling disease. Should whirling disease appear in other areas or

in private hatcheries, now or in the future, it is imperative to have the ability to inspect bodies of water on private land that we suspect may be stocked with diseased fish. These fish may well have been imported into the state. Although no hatchery in Montana is known to have whirling disease, it does occur in hatcheries in Colorado, Idaho and Utah. The need for inspection is not done to be punitive, but rather to identify, contain and control the spread of disease and protect Montana's fishery resources.

HB 464 gives the Department the ability to inspect private fish ponds when there is a concern with disease or an undesirable species and act to remove the threat. We are more than willing to work with pond owners to minimize disruption and costs to them. I believe it is in the best interest of the state to replenish ponds found to have diseased fish once the disease has been cleared up. We believe this is necessary to maintain the health of our lakes and rivers and urge your support of HB 464.

HB 464

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

February 14, 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 promotes the wise use and management of fisheries and aquatic habitat. AFS is the oldest professional conservation society in North America and the Montana Chapter has about 160 active members.

The Montana Chapter has several concerns regarding the permitting of private fish ponds in Montana. Private fish ponds are potential sources for movement of disease and non-native fish into the waters of the state. The number of persons applying for private fish pond permits is increasing. We need to better regulate these private ponds to reduce the likelihood of non-native exotic fish competing with and hybridizing with native fish species as well as to reduce the potential for transmission of disease to wild and native fish communities.

We believe the following steps should be taken to achieve this goal:

1. All private ponds must have a valid license before fish can be stocked. An application fee should be required to cover the costs incurred by Montana Fish, Wildlife and Parks to process the application;
2. Private fish pond licenses must be limited to a time period of five to ten years, after which the license would have to be renewed. A license renewal fee should be assessed, but would be less than the initial application fee;
3. FWP should retain the right to restrict ponds to appropriate species of fish and should have the right to deny a license, based on the location of the pond, to protect native aquatic communities. FWP should work with private commercial fish hatcheries within the state to ensure that native species appropriate for each major drainage are available for private use. No pond licenses should be issued in any watershed where native species are at risk unless the appropriate native species is commercially available.
4. All fish pond licenses should contain a provision allowing FWP to inspect and sample ponds to test for disease and to ensure that they contain only the species permitted. Prior notification of

pond owners should be required prior to these inspections.

5. Commercial fish hatcheries that supply fish to private ponds must bear the burden of ensuring that the fish they distribute go only into permitted ponds. Commercial hatcheries should be required to sell fish only to persons showing proof of a valid pond permit from FWP and to keep accurate accounts of the transaction, including numbers of fish sold and their destination.

Because of the rapid increase in the number of private fish pond licenses being applied for, it is urgent that more controls be placed upon the permitting of these ponds to halt the improper introduction of non-native species and the potential spread of disease.

The Montana Chapter of the American Society urges your support of legislation that would allow these problems to be rectified within the next two years. Thank you.

HOUSE OF REPRESENTATIVES
54TH LEGISLATURE

HOUSE FISH & GAME

COMMITTEE

WITNESS STATEMENT

Please Print

NAME Janet Ellis BILL NO. HB 464

ADDRESS Box 595, Helena 59624 DATE Feb. 14, 1995

WHOM DO YOU REPRESENT? Montana Audubon Legislative Fund

SUPPORT ☒ OPPOSE ☐ AMEND ☐

COMMENTS: _____

We support this bill because it will give the MT Dept. of Fish, Wildlife & Parks an important tool to begin to combat the frightening, and newly discovered ^{in Montana} disease known as whirling disease. We are particularly concerned about the effect that whirling disease may have on our native cutthroat population. Cutthroat are considered very vulnerable to whirling disease. They are also considered a "species of special concern" because of declines in their population. This is a proactive bill that will let us all get our act together as quickly as possible - before whirling disease becomes too widespread.



HARRIMAN TROUT CO.

9615 Fish Hatchery Road
St. Ignatius, Montana 59865

EXHIBIT 23

DATE FEB 14, 1995

HB 464

(406) 745-4355

2/13/95

The Honorable Doug Wagner and Committee Members

Comments on HB#464

There are regulations and laws already on record that address the illegal introduction and movement of live fish in Montana.

On the specifics of whirling disease in the Madison River drainage, there is no evidence to support the theory that the pathogen was introduced by a private pond stocking from a hatchery, illegal or otherwise.

As an example, Viral Hemorrhagic Septicemia (VHS), a much more serious disease, has shown up on the West Coast of Washington and Oregon in wild stocks of fish returning from the ocean. It is strongly suspected that VHS was introduced by commercial shipping much the same way Zebra mussels were introduced to the Great Lakes. A ship loading cargo in a foreign port uses sand and mud pumped from the port seabed for ballast to balance cargo. When the ship arrives at the port of destination and offloads cargo, The ballast holds are flushed into the port waters. The ballast material contaminated with infectious agents were released.

The whirling disease agent could have been introduced from out-of-state waters by mud or bottom sediment on a trailered boat or by the movement of waterfowl.

The point being that there are other possible methods of introducing diseases than by fish hatcheries.


Adding the requirement of the license number to the annual report sounds simple and innocuous.

The problem arises with long time customers who may not be able to find their ^{pond} ~~and~~ license any longer, and people become offended and upset if you question their integrity.

The FWP have a master list of all licensed ponds to check against. However they won't release it to private hatchery operators, claiming protection of privacy, and difficulty of keeping the list updated. Since the private producers submit, by law, an accurate record of sales to the FWP by January 31 of each year, the FWP can check the names for license numbers with a couple strokes of computer keys.

The new section placing a two-year moratorium on the issuance of any new pond licenses is unjustified, and with no explanation why this is being requested by the FWP.

A moratorium would only serve to encourage those pond owners so inclined to purchase fish illegally. Such a situation would serve noones best interests; rather, it would deepen resentment of property owners against perceived unnecessary restrictions.

Thank you

Alan Harriman

Amendments to House Bill No. 464
Introduced Reading Copy

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

Prepared by Doug Sternberg
February 14, 1995

1. Title, lines 5 and 6.
Following: "FISH;" on line 5
Strike: remainder of line 5 through "LICENSES;" on line 6
2. Title, line 7.
Strike: "AND A TERMINATION DATE"
3. Page 3, lines 14 through 16.
Strike: section 2 in its entirety
Renumber: subsequent sections
4. Page 3, line 20.
Strike: section 4 in its entirety

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE February 14, 1993

BILL NO. 433

SPONSOR(S) GRADY

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jim Richard	MWF	X	
David Gerson	MIT Outfitter & Guides	X	
Tony Schaner	Skyline Sportsmen	X	
Bill Holdorf	Anaconda Sportsmen	✓	
SAM BABICH	Skyline Sportsmen Ass	✓	
Pat Graham	FWP	✓	

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

HR:1993

wp:vissbcom.man

CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE February 14, 1995

BILL NO. 262

SPONSOR(S) MENAHAN

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
John E. Crumley	Self		
Dan Sellers	average citizen	? with changes	
Chris Melus	Montana Stockgrowers		✓
Tony Schanen	Skyline Sportsman	✓	
BILL HOLDORF	SKYLINE SPORTSMEN	✓	
SAM BABICH	skyline " Self	✓	
L.F. Thomas	Palcon & Sportsman	✓	
Jeanne-Marie Souvigney	GYC	✓	
Steve Wilson	RCF & W Travel Co	✓	
Stephen Kenley	Montana Sportsman	✓	
Jim Richer	MWF	✓	
Shirley Menahan	Self	✓	
REP PAVLOVICH	HD 37	✓	✗

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CS-14

Glenn Johnson MT Alt Sites & Facilities
Lisa Morris self
Jim Burnett SD #12
Immigrant Rights Foundation

✓

✓

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME COMMITTEE DATE
BILL NO. 262 SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Pat Graham	FWP		<input checked="" type="checkbox"/>

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE February 14, 1995

BILL NO. 486

SPONSOR(S) JORE

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Phil Palmer	Self	X	
Stan Ryan	Self	X	
John E. Cronin	Self A.C.F.	X	
Dan Sellen	Self	partially	
William L. Slack	JBC. - Self	X	
GEORGE OCHENSKI	CONFEDERATED SALISH-KOOTENAI		X
Jim Richards	MWF		X
George Heavy Runner	Self		X
Brad Martin	MT Democratic Party		X
Roland Morris	Moiese - self	X	
Christine Kaufmann	MT Human Rights		X
Sen. Jeff Weldon			X
MARY E NELSON (Ronda)	Self		X

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE

BILL NO. 486 SPONSOR(S)

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Leighton Reum	Self		X
Pat Graham	FWR		✓

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HR:1993

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE February 14, 1995

BILL NO. 451

SPONSOR(S) ELLIOTT

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
ROBT FLANSAAS	NOXON Rod & Gun CLUB	X	
Greg J Housler	mt St Houndsman		X
John Cramer	Self	X	
Dan Sellen	average citizen	✓	
Steve Wilson	RCF & W Raffle	X	
Stephen Kenney	montana Sportsman	X	
May Lutz	PRES MOUNTED HOUNDSMEN		X
David Johnson	MT Outfitter, & Co.	X	
Tony Schroner	Skyline Sportsman	X	
Bill Haldorf	Quacoula Sportsman	✓	
JERRY C. SHIVER	SELF	X	
SAM DABICH	SELF	✓	
Pat Eraham	FWP		✓

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE February 14, 1993

BILL NO. 464

SPONSOR(S) HARPER

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
ROBIN CUNNINGHAM	F.O.A.M.	X	
Janet Ellis	MT Audubon	X	
Will Whitney	Mt. Chapter Am. Fish Society	X	
GEORGE OCHENSKI	TROUT UNLIMITED	X (AMEND)	
Tony Schooner	Skyline Sportsman	4	
Bill Holdorf	Anaconda Sportsman	✓	
SAM BABICH SELF		✓	
Pat Graham	FWP	✓	

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