

MINUTES

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

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN DOUG WAGNER**, on March 7,, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Douglas T. Wagner, Chairman (R)
Rep. William Rehbein, Jr., Vice Chairman (Majority) (R)
Rep. Emily Swanson, Vice Chairman (Minority) (D)
Rep. Charles R. Devaney (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Marian W. Hanson (R)
Rep. 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: Rep. Hal Harper (D)

Members Absent: None.

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

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

Committee Business Summary:

Hearing: SB 312, SB 352
Executive Action: None.

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

HEARING ON SB 312

Opening Statement by Sponsor:

SEN. KEN MESAROS, Senate District 25, Cascade, distributed an exhibit identifying the responses of two major agencies in the state of Montana regarding the bison problem. SB 312 was an act requiring the Department of Livestock to take certain actions with regard to wild buffalo entering the state of Montana. It also required the Department of Fish, Wildlife and Parks (FWP) to cooperate with the Department of Livestock in managing certain wild buffalo as a species requiring disease control. **SEN.**

MESAROS read the Statement of Intent from the bill. The Department of Livestock would be allowed to shoot diseased wild buffalo while FWP would be allowed to manage uninfected bison to protect against damage to people or property. Brucellosis is a problem within bison herds and has the potential of being hazardous to Montana's cattle. Because of this, the state's brucellosis-free status is jeopardized. SB 312 would allow a reasonable response to the current threats against the health of the cattle industry. It was meant to augment the governor's plan. The ultimate goal is to control brucellosis.

FWP and the Department of Livestock were strongly urged to enter into a long-term agreement with the National Park Service for the management of Yellowstone National Park's bison herd. If the National Park Service does not proceed in good faith in a timely manner, the state departments were strongly urged to take appropriate court action. SB 312 required that a report be presented to the 55th Legislature regarding the state of the bison herd. **EXHIBIT 1**

Proponents' Testimony:

Bob Martinka, FWP, distributed written testimony. Conflicting policies of two federal agencies, USDA Animal and Plant Health Inspection Service (APHIS) and the National Park Service (NPS), have created an unacceptable situation for the state of Montana. The mere presence of bison in Montana threatens the state's brucellosis-free certification. SB 312 clarified the responsibilities of both the Department of Livestock and FWP. In addition, SB 312 designated the Department of Livestock as the lead agency for actions to eliminate bison originating from Yellowstone National Park. **EXHIBIT 2**

Cork Mortensen, Executive Secretary, Department of Livestock, stated that SB 312 would give primacy to the Department of Livestock for bison management until the disease was eradicated. The department had worked closely with the sponsor and with FWP in arriving at the consensus found in SB 312.

Dr. Clarence Siroky, State Veterinarian, stated that brucellosis was a public health disease and was present in about 50% of buffalo. Currently, 136 herds in the United States are infected. The disease lies in a large portion of the central United States. One cow can infect thousands of others. APHIS has taken the position that bison represent a threat and will not tolerate free-roaming bison within Montana. They have threatened to remove Montana's brucellosis-free status if the problem of infected bison coming into the state from the park was not addressed. Montana currently has to test cattle going to certain states to ensure that they are brucellosis-free.

People can get brucellosis. Many physicians are not familiar with brucellosis symptoms because it has been so successfully eradicated. Brucellosis infects the meat and tissues of an animal. However, cooking meat thoroughly removes the potential of getting the disease. When people handle game animals, they should be extremely careful not to cut themselves and not to touch reproductive organs.

Dr. Siroky stated that APHIS wanted to see action before they will remove sanctions. Testing the bison and shooting the diseased animals is one way of eliminating the spread of the disease. Another way is to spay or neuter the animals. If bison were allowed to come into the state for the purposes of a public hunt, their mere presence causes problems, including a threat to public health. Allowing a public hunt would scatter the bison herd across a wider area. He urged the committee to support SB 312.

John Bloomquist, Montana Stockgrowers Association, stated that the largest problem stemmed from the policy of the National Park Service, which has been a "no management" policy. This has resulted in the spread of brucellosis. Because of their policy, federal agencies have made no efforts to control or eradicate the disease. The other problem with the "natural management philosophy" is poor range conditions. There is a severe overgrazing problem in Yellowstone National Park. Because of the population explosion and heavy snowfalls during the winters, bison have been migrating out of the park to find food.

As a result of management philosophies, seven states require that Montana cattle be tested for brucellosis. Cattle sales have been drastically reduced. SB 312 dictated that Montana could eliminate infected bison entering the state and clarified the duties of FWP and the Department of Livestock. **Mr. Bloomquist** was not opposed to hunting, but it is not a solution to the brucellosis problem. Once the brucellosis eradication program is successful, hunting would be acceptable.

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Lorna Frank, Montana Farm Bureau, supported SB 312. The Department of Livestock should be taking care of the brucellosis problem in bison since they were already responsible for handling the disease found in cattle. She did not want federal agencies taken "off of the hook" for the control of the bison within the park. She urged the committee to pass the bill.

REP. BILL TASH, House District 34, Dillon, expressed strong support for the bill. Brucellosis nearly put his family out of business in the 1930's after 50 years of livestock production. Because of brucellosis, the entire herd was liquidated, and they had to start over. Currently, his cattle herds were threatened as much as they were 60 years ago from the brucellosis found in bison within Yellowstone National Park. It has been an expensive and ongoing effort to maintain brucellosis-free cattle. Federal agencies should ultimately be responsible for the problem, but in the interim, Montana should take "band-aid" measures to improve the situation. He urged the committee to support the bill.

John Bloomquist, Montana Stockgrowers, spoke on behalf of **Les Graham, Montana Livestock Market Association and Montana Dairyman's Association**, who supported the bill.

REP. DICK KNOX, House District 93, Winifred, agreed with **REP. TASH**. SB 312 was an excellent compromise and was the only way to address the problem.

Opponents' Testimony:

Tony Schoonen, Skyline Sportsmen's Association and Anaconda Sportsmen's Association, stated that they did not oppose the "main thrust of the bill." The brucellosis-free status was very important. However, hunting has continued to be put off. Sportsmen have been paying the bill for bison control actions and were not receiving any benefits. He read a letter from **Steve Antonioli, Skyline Sportsmen's Association**, opposing the bill. The letter described how hunters have "footed" the bill over brucellosis control. To be fair, the bill should be amended so that the Department of Livestock would have to assume the entire cost of brucellosis control for the next four years. **EXHIBIT 3**

Stan Frasier, citizen, stated that he supported most of the bill. The brucellosis problem was a livestock issue and should be handled by the Department of Livestock. However, he objected to subsection (4) on page 4 which stated, "The department may adopt rules with regard to wild buffalo or bison that have not been exposed to or infected with a contagious disease but are in need of management because of potential damage to person or property." This was clearly outside of the parameters of disease control. Bison are wild animals and should be allowed to roam.

Keith Atcheson, Montana Chapter of the Safari Club International, distributed written testimony. SB 312 did not authorize FWP to create a hunt for bison originating from Yellowstone National

Park because they were classified as "diseased" animals. The Department of Livestock would only be given authorization to handle the bison. A viable cost-effective management option was being overlooked if FWP was not allowed the option of establishing a bison hunt. They requested that FWP be allowed to have the option of hunting where it is feasible. **EXHIBIT 4**

Questions From Committee Members and Responses:

REP. TASH asked **Mr. Atcheson** who should test the bison to determine if they were disease-free. **Mr. Atcheson** stated that it was difficult to tell if a buffalo was disease-free. He was referring to bison that would not be in direct contact with cattle. **REP. TASH** asked about his proposed amendment. **Mr. Atcheson** said that FWP should have the hunting option for bison that were not going to be in direct contact with cattle. Testing bison for disease was up to the state. **REP. TASH** stated that it was not the state's herd but rather the federal government's herd.

REP. DICK KNOX expressed concern over motivating the National Park Service (NPS) to test and control brucellosis within the boundaries of the park. He asked **Dr. Siroky** if a comprehensive disease control program had been presented by the state to the NPS. **Dr. Siroky** stated that a number of different possibilities for disease control for inside and outside of the park had been presented. However, the NPS has indicated a "hands off" policy. NPS has been claiming that brucellosis found in bison does not cause the same disease in cattle. According to NPS, it was a different bacteria. NPS also did not believe a disease could be transmitted from bison to cattle. **Dr. Siroky** maintained that through controlled experiments, the disease is transmitted from bison to cattle. He stated that part of the rationale of NPS is that brucellosis does not cause a problem in the park.

REP. KNOX asked if the park service maintained the attitude that control was not needed. **Dr. Siroky** said that he and FWP personnel returned totally frustrated from meetings with NPS. NPS would not acknowledge that brucellosis needed to be controlled within the park. At the same time, brucellosis cannot be tolerated outside of the park; it was a large threat. Recently, 52 bison were killed outside of the park and about 65% of those bison were infected with brucellosis. Historically, the infection rate was about 50%. The infection rate in bison bulls in West Yellowstone during the last kill was 76%.

REP. KNOX asked if the proposals that NPS rejected would have been workable control measures. **Dr. Siroky** stated the proposals had been successful with time and practice. They were not experimental methods and have worked with other herds. If the methods were used aggressively, the disease could be eliminated in the park. It would take awhile and may utilize some unconventional methods. Beginning in 1940 and through 1960 on

the Moiese Bison Range, bulls were vaccinated and brucellosis was eliminated.

REP. KNOX asked about the timeframe being considered. **Dr. Siroky** said it would take about 10 years using aggressive methods to virtually eliminate the disease. Some people have estimated three years, but it may not include all bison. With the new oral vaccination and timeframe of about 10 years, the disease could be eliminated.

REP. BOB REAM stated that the brucella organism was found in the uterus of the female bison and caused abortions during the last trimester. The mode of transmission of brucellosis was ingestion of the aborted tissue. He asked **Dr. Siroky** if this was correct. **Dr. Siroky** said yes. The most common mode of transmission within a herd, once the disease was present, was through the oral ingestion of reproductive fluids. **REP. REAM** asked if bison bulls transmit the disease. **Dr. Siroky** said if bulls only transmitted the disease, the disease would probably die out. However, if one infected bull transmitted the disease to one female bison, that female bison could transmit it to a herd of 1,000. **REP. REAM** asked when bison begin calving. **Dr. Siroky** stated they started about the middle of May and continued until the middle of July.

REP. REAM asked **Dr. Siroky** about the policy regarding areas in the state that would never have cattle. **Dr. Siroky** stated that other states and APHIS recognize that the Montana Department of Livestock had control over all public and private lands in Montana as far as disease was concerned. If a disease is found in any species of animals on those lands, the Department of Livestock was obligated to control the disease. If the other states and APHIS feel that Montana was not taking care of its obligation regarding brucellosis, the state's status would continue to be downgraded.

REP. REAM asked about the role of APHIS and what it would take to get the other states to withdraw testing requirements.

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Dr. Siroky said it must be clearly delineated that Montana was in control of infectious bison within the state. Infected bison should not be allowed to roam the state of Montana freely. He spoke to APHIS and other states regarding his idea of a quarantine facility where animals would be brought for testing and neutering if necessary. They thought the idea was acceptable. Consequently, the bison would not be uncontrolled, free-roaming, diseased bison. Some may still have the disease, but they would not be able to transmit it. Thus, the situation would be under control. As a result, Montana's brucellosis-free status would be returned with no limitations. If this proposal was undertaken, the message must be sent to federal agencies that Montana still wanted commitment from them.

REP. REAM asked **SEN. MESAROS** about the intent of amendments to Section 2, subsection (c). **SEN. MESAROS** stated that the amendments further defined and streamlined the roles of FWP and Department of Livestock. It was done in the context of an Interim Plan.

REP. REAM asked what Section 2 referred to. **SEN. MESAROS** said the Senate repealed that section and presented new language along with existing language for clarification. **REP. REAM** stated that Section 2 language coordinated with Section 1 regarding the Department of Livestock. He said there should be similar language in Section 1 coordinating FWP's role. Department of Livestock actions should also be subject to a plan approved by the governor. He asked **SEN. MESAROS** if he had objections regarding the addition of language that would make the Department of Livestock subject to operating under plans approved by the governor. **SEN. MESAROS** understood Section 1 coordinated with Section 2 which would include a plan approved by the governor.

REP. REAM asked if the bill would allow bison hunting on public lands outside of the park which did not have cattle if the Interim Plan made that recommendation. **SEN. MESAROS** stated that the bill allowed for public hunting only after bison were determined to be disease-free. **REP. REAM** stated, in that case, hunting would not occur for about 10 to 20 years. **SEN. MESAROS** said the bill allowed hunting in the future. If some of the bison under the proposed plan could be determined disease-free and be relocated to an appropriate place, there could possibly be a public hunt. This would be under the jurisdiction of FWP management. The issue of hunting was complex because of the concern over the brucellosis-free status.

REP. ROD MARSHALL stated that the meat and carcass of a bison could be worth about \$700. He asked **SEN. MESAROS** why the meat and carcass could not be auctioned and the money used to run the program. **SEN. MESAROS** stated that it was his intent to maintain the current practice that exists, which involved giving the meat and carcasses away. **REP. MARSHALL** asked why he wanted to handle it in this manner. **SEN. MESAROS** referred to previous years during public hunting of bison and the resulting confusion and difficulties surrounding it.

REP. MARSHALL stated that he was not referring to public hunting. He suggested that no matter how the bison were killed, the parts should be auctioned to gain revenue for the program. **SEN. MESAROS** stated the first priority would be to donate the bison to charity. The second priority would be to sell the bison to help defray expenses. It was in the bill under Section 1, subsection (3)(b). **REP. MARSHALL** stated that it would be the first priority to give it away. **SEN. MESAROS** expressed his intent of continuing the existing practice.

REP. BOB RANEY expressed concern over the fiscal expenses of having two departments involved. He asked how **SEN. MESAROS** felt

about bringing two departments together that have different goals and functions and if it would be more cost-effective to have one department handle the problem. **SEN. MESAROS** said that historically, both departments have been involved. SB 312 just redefined the roles of each department.

REP. RANEY assumed that FWP's role should be the management of wild game animals. Bison were not considered game animals until the Department of Livestock determined which ones were disease-free and they were transported to another area. He asked **SEN. MESAROS** if sportsmen's money was being used improperly. The sportsmen do not get any benefits. **SEN. MESAROS** stated this was the reason the major role was being shifted to the Department of Livestock. FWP will play a minor role in the bison migrating out of the park with the disease.

REP. RANEY asked **Mr. Martinka** if it was "fair and proper" to use sportsmen's money for the management of wild bison that they have no opportunity to harvest. **Mr. Martinka** said they had examined the issue. FWP did not exist solely for the purpose of managing game animals. They were responsible for other nongame animals for which no harvest was allowed. In their opinion, the expenditures were legitimate.

REP. RANEY asked where uninfected bison or bison that had not come into contact with the disease existed. **Mr. Martinka** said that he did not believe any existed in Montana. **REP. RANEY** understood the role of FWP in SB 312 was to develop a hunting plan after the Department of Livestock moved disease-free bison away from Yellowstone National Park. **Mr. Martinka** said that would be one of the responsibilities.

REP. RANEY asked **Mr. Martinka** what FWP's role was until the Department of Livestock developed its plan of action. **Mr. Martinka** explained that, according to the bill, their role was to assist the Department of Livestock.

REP. RANEY expressed much concern over sportsmen's money being used for disease control. SB 312 stated that wild buffalo coming from Yellowstone National Park would be managed for disease. They would not be managed for hunting. He asked **Mr. Martinka** if disease was the only reason that bison were being managed, why sportsmen's money was being used. **Mr. Martinka** said it appeared to be legislatively mandated.

REP. RANEY understood that SB 312 managed bison for brucellosis. He asked **SEN. MESAROS** why sportsmen's money was being used for this purpose. **SEN. MESAROS** said the intent of the bill was to shift the focus to the Department of Livestock. FWP would be allowed to manage bison once they were determined to be disease-free.

REP. JIM ELLIOTT understood that transmission of brucellosis in a herd of cattle was mainly through ingesting of the mucosa from

the infected cow bison. **Dr. Siroky** said it was transmitted primarily through oral contact with reproductive tissues and fluids from an infected animal. **REP. ELLIOTT** said that an infected bull could infect a herd. **Dr. Siroky** explained that it was less probable for a bull to transmit the disease to many bison than it was for a female bison.

REP. ELLIOTT stated that his veterinarian treated many bison around the Moiese Bison Range. His veterinarian said that the Moiese Bison Range herd was not always brucellosis-free but it was always surrounded by a fence. Before the bison were disease-free, there was a high incidence of brucellosis in cattle in the surrounding area. The cattle never had direct contact with the bison, and it was surmised that the disease must have been transmitted through another host to the cattle. When the disease was eradicated from the Moiese Bison Range, it also decreased in cattle in the surrounding area. He asked **Dr. Siroky** if keeping the animals in Yellowstone National Park would be an adequate measure to eradicate the disease. **Dr. Siroky** explained that one of the ways the disease could have traveled from the fenced area to the area outside of it was through predators, such as coyotes. Predators grab a fetus or afterbirth out of the fenced area to eat it and leave part of it. Cattle come along and become infected. Just putting a fence around the park would not completely control the disease.

REP. ELLIOTT said the ideal solution was for the National Park Service to eradicate brucellosis in Yellowstone National Park. **Dr. Siroky** agreed.

REP. CHASE HIBBARD asked **Dr. Siroky** about his earlier statements regarding public health risks from hunting bison. **Dr. Siroky** stated there have been two instances of brucellosis infection diagnosed in humans in Montana in the last eight years. In both cases, the hunters had participated in late elk hunts in the Ennis area. The infection rate in elk was low. However, in a late hunt, the fetus was developed. When hunters cleaned the animal, they opened up the uterus on purpose or by accident and exposed themselves to the disease. The infection rate in bison was much higher. Therefore, the possibility of contracting the disease while dressing the animal after harvesting was much greater.

REP. HIBBARD said the committee had spent considerable time on the issue of bison hunting. It was an extremely important issue to many people. Consideration has been given for ways that the public could participate in harvesting bison. The majority of people realize there is a public health risk. He asked **Dr. Siroky** if there was any situation where people could be involved in a hunt on public land that would still allow disease control and would not jeopardize Montana's status with APHIS. **Dr. Siroky** believed that if animals were neutered or spayed, they could be placed anywhere in the state for a hunt. The other alternative was to set up a quarantine facility for testing

animals for hunting purposes. With a little patience, there could be a group of bison available to hunt.

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REP. HIBBARD asked **SEN. MESAROS** if the public would be able to be involved sooner than 10 years. **SEN. MESAROS** said that any time a public hunt was proposed on a diseased animal, there is a threat that exists. Public safety must prevail. SB 312 tried to take all issues into account but still leave options.

REP. TASH said that part of the responsibility of FWP was the safety of sportsmen. He stated that the disease could be transmitted to sportsmen through the harvesting of bison, and it was a definite concern. **Mr. Martinka** agreed.

REP. REAM referred to the language on page 3, lines 20-25, and assumed that it meant that FWP would continue to cooperate in drafting the Interim and Long-Range Plans. **Mr. Martinka** said he was correct. **REP. REAM** asked if hunting was an option recommended under the Interim Plan, would the language in SB 312 allow it. **Mr. Martinka** said the proposed plans and APHIS regulations must be considered separately regarding the problems with diseased cattle. The plan may determine that hunting was acceptable in a particular area, but it could potentially conflict with APHIS regulations dealing with diseased bison in Montana.

REP. REAM said in the planning process, he hoped that everyone would work toward a compromise. He asked if surrounding states would also be involved in a plan. **Mr. Martinka** said there was currently a tri-state brucellosis committee examining the brucellosis problem in a larger perspective than just Montana or Yellowstone National Park. It would be difficult to address the issue of eradicating the disease in the park without addressing other game animals, such as elk, who also carry the disease.

REP. BOB PAVLOVICH asked **Mr. Martinka** if there was a large concern about public safety when buffalo were hunted in the past. **Mr. Martinka** said there was concern over the issue. FWP informed hunters when they were cleaning the bison that they could potentially contract brucellosis if they had cuts on their hands. **REP. PAVLOVICH** asked if anyone contracted the disease at that time. **Mr. Martinka** said he was not aware of anyone who contracted the disease.

REP. DAN FUCHS said that **Mr. Martinka** had stated there was a legislative requirement to spend sportsmen's money on the problem. **Mr. Martinka** explained that the existing statute 87-1-215 required FWP to be part of bison management activity. This section would be repealed by SB 312.

REP. ELLIOTT asked if bison or cattle could be cured of brucellosis through neutering or spaying. **Dr. Siroky** said they

could not be cured, but they would not have the ability to transmit the disease. The disease could still remain in the lymph nodes.

REP. ELLIOTT asked if a neutered game animal was harvested and cleaned, could the disease still be transmitted. **Dr. Siroky** said it was a slim possibility because the disease was located in the cells. As long as a hunter did not manipulate reproductive tissues, they would be safe.

REP. MARIAN HANSON stated that bison have a long life span and contract the disease as calves. That bison would abort their first pregnancy and would no longer be able to have any calves. She asked **Dr. Siroky** if that was correct. **Dr. Siroky** said that it occurred in the cattle population. There was nothing to indicate that it did not occur in the bison population.

REP. HANSON stated that bison could lose a calf and still have a reproductive life. **Dr. Siroky** said this was typical of brucellosis.

CHAIRMAN DOUG WAGNER asked **Dr. Siroky** about the cases of brucellosis in people and if they had died. **Dr. Siroky** explained that no one died, but they remained undiagnosed for about four years. Physicians did not recognize the symptoms of brucellosis. **CHAIRMAN WAGNER** asked about the symptoms and if it was curable. **Dr. Siroky** explained that once the disease becomes chronic, it remains throughout a person's life. The symptoms are joint infections, testicle and prostate infections, and cardiovascular problems. He said the Hunchback of Notre Dame had brucellosis. The disease caused the hump in his back. Once the disease takes refuge inside cells, which makes antibiotics ineffective.

CHAIRMAN WAGNER stated that vaccinations would not work in infected animals. **Dr. Siroky** said he was correct. However, it would prevent an animal from contracting the disease. The disease was not curable. Spaying or neutering animals or slaughtering them was the only way to stop the transmittal.

CHAIRMAN WAGNER commented that the two cases in the past eight years involved people who had contracted the disease from elk. **Dr. Siroky** said he was correct.

CHAIRMAN WAGNER asked who would spay or neuter animals leaving the park. **Dr. Siroky** said the procedure would be done by the Department of Livestock or APHIS veterinarians. The service could also be contracted out. **CHAIRMAN WAGNER** asked about the cost of that service. **Dr. Siroky** said it would cost \$6 to \$10 per head. If anesthetics were used, it would cost about \$15 to \$20 per head. **CHAIRMAN WAGNER** asked who would pay for the procedures. **Dr. Siroky** said the Department of Livestock or APHIS.

CHAIRMAN WAGNER stated that FWP bison management was being reduced resulting in an expense reduction of \$7,350. He asked **SEN. MESAROS** if the Department of Livestock would be paying for part of the management. **SEN. MESAROS** said the responsibilities and budgeting costs depend on a department's activities. If the Department of Livestock becomes responsible for diseased animals leaving the park, then they will be paying a portion of the expenses.

CHAIRMAN WAGNER asked **Mr. Martinka** if he was employed at FWP when bison hunting was still allowed. **Mr. Martinka** said yes. **CHAIRMAN WAGNER** asked if bison got past game wardens and sportsmen during the hunt and mingled with the cattle. **Mr. Martinka** said they did not experience problems with commingling. However, there were problems with commingling in Gardiner during 1989. FWP reacted in time. If hunters would have been called into the situation, action could not have been taken as quickly.

CHAIRMAN WAGNER asked if FWP would still be authorized to dispense of the animals if hunters did not show up in a timely fashion. **Mr. Martinka** said that he was correct. **CHAIRMAN WAGNER** said, in view of that, hunting could occur in areas like Decker Flats and Eagle Creek with FWP acting as a backup to prevent bison from getting into the wrong areas. This would allow sportsmen to participate even before bison were determined disease-free. **Mr. Martinka** said yes.

Closing by Sponsor:

SEN. MESAROS thanked the committee for a good hearing. The problem with brucellosis was real and represented a threat to public health. SB 312 attempted to arrive at a consensus between all groups involved. He urged the committee to concur in SB 312.

HEARING ON SB 352

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, Senate District 13, Big Timber, said the reason both bison bills were presented was because of irresponsible management by the National Park Service (NPS). Even with the population explosion over the past few years, NPS was not taking action. The carrying capacity of the park was about 1,500 to 2,000 bison. Currently, bison number over 4,000 head. There is a large problem with bison in his district. Most bison cross the park border in southern Montana where there are hundreds of ranchers and livestock herds. Bison like low lands around rivers. He was concerned about bison being in areas like Eagle Creek because bison travel many miles at times and could end up in ranches near there. If a blizzard happened and bison were at the border, they would migrate out of the park and end up on ranches. Currently, it is illegal to shoot a bison. A person would face a \$500 to \$1,000 fine and six months in jail. Some of

his constituents are faced with the risk of going to jail to protect their livelihood.

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SEN. GROSFIELD stated that SB 352 would provide a limitation on criminal penalties if a landowner shoots a bison that is suspected of carrying the disease. However, the landowner must make an effort to notify FWP to allow them to take care of the problem. The landowner may not provide feed to game animals that results in a concentration of game animals that may increase the potential of disease transmission.

Proponents' Testimony:

Mike Lahr, Attorney for Turner Enterprises, distributed a copy of amendments for clarification purposes. The amendments did not change the substance of the bill. He explained that the amendments would place the language "publicly owned" before the word "wild buffalo." In another section of Montana code, wild buffalo was described. Wild buffalo were buffalo that have not been reduced to captivity. Concern arose over a possible interpretation of privately owned buffalo that have left their home range. **EXHIBIT 5**

Bob Martinka, FWP, presented written testimony and amendments. FWP appreciated the efforts of the sponsor to work with them in developing this legislation. **EXHIBITS 6 AND 7**

Cork Mortensen, Executive Secretary, Department of Livestock, expressed support for the bill.

Lorna Frank, Montana Farm Bureau, Montana Stockgrowers Association, and Montana Cattlewomen's Association, testified on their behalf in support of SB 352.

Opponents' Testimony:

Stan Frasier, citizen, stated objections similar to the ones he expressed against SB 312. Cattle and horses can go anywhere in Montana because it is an open range state. He asked the committee if a cow wandered into his yard and ate his daisies, could he shoot it. He was bothered by the mindset "that anything that agriculture can't figure out how to make a buck off of, they want to get rid of it." **Mr. Frasier** objected to some of the language used in the bill. However, he supported Section 1, subsection (3) which stated that people could not feed game animals. If brucellosis is only contagious during the calving season, why should bison be eliminated whenever they leave the park. He thought SB 352 was an "extreme" bill and hoped the committee would not pass it.

Questions From Committee Members and Responses:

REP. REAM asked SEN. GROSFIELD about the amendments proposed by FWP. SEN. GROSFIELD stated that the amendments were acceptable. The amendments were predicated on the assumption that both SB 312 and SB 352 pass. If SB 312 passed, Section 2 of SB 352 would be void. He suggested that if SB 312 failed, however, amendment four of FWP should be changed from the Department of Livestock to FWP. SB 352 was not intended to be a hunting or game farm bill. SEN. GROSFIELD also agreed to Mr. Lahr's proposed amendment.

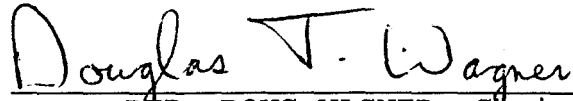
CHAIRMAN WAGNER suggested that bison be tagged on the ear with orange paint to indicate they are disease-free; however, the bill's sponsor was adamantly opposed to any sort of "earmarking."

Closing by Sponsor:

SEN. GROSFIELD proposed to add the language "or otherwise threaten livestock" at the end of line 29 on page 1 for clarification purposes. There has been a lot of publicity regarding brucellosis and it could majorly affect revenue and negatively impact the state's economy. He expressed support for SEN. MESAROS's bill. A lot of discussion has occurred about getting the federal government to take action. SB 352 was strictly a disease control bill. Ranchers spend thousands of dollars repairing damage that bison do. He urged the committee to pass the bill and stated that REP. SHEILL ANDERSON would carry the bill to the House floor if it passed.

ADJOURNMENT

Adjournment: 5:33 p.m.



REP. DOUG WAGNER, Chairman



MARY RIITANO, Secretary

DW/mr

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL

DATE March 7, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Doug Wagner, Chairman	✓		
Rep. Bill Rehbein, Vice Chairman, Majority	✓		
Rep. Emily Swanson, Vice Chairman, Minority	✓		
Rep. Charles Devaney	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Marian Hanson	✓		
Rep. Hal Harper	EXCUSED		
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	✓		

—
AN' TRULY WISH THESE TWO POTLUCKERS
WOULD LEARN T'N GIT-A-LONG, BEFORE
SOMEBODY REALLY GITS HURT.



Paul Secomb, Butte

TSB312.HP

Senate Bill No. 312
March 7, 1995
Testimony presented by Bob Martinka
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

Conflicting policies of two federal agencies, USDA Animal and Plant Health Inspection Service (APHIS) and USDI National Park Service (NPS), have created an unacceptable situation for the State of Montana. In defiance of APHIS' National Brucellosis Program and with disregard for the consequences to Montana's livestock industry, NPS refuses to control the numbers and distribution of the nation's bison herd in Yellowstone Park. In defiance of NPS' mission and with disregard for the special values of Yellowstone Park and the nation's bison herd, APHIS will not provide the regulatory flexibility for the Park to address the problem.

Bison routinely migrate from Yellowstone Park into Montana. When they do, they damage private property and may associate with livestock thereby threatening the direct transmission of brucellosis. Moreover, the mere presence of these animals in the state is a threat to Montana's certification under the National Brucellosis Program. The reduction in Montana's class-free certification would be equivalent to market sanctions against Montana cattle, at significant cost to the industry.

An unfortunate consequence of Montana's dilemma with bison is that the lack of cooperation between APHIS and NPS may, at times, compromise the working relationship between the departments of Livestock and Fish, Wildlife & Parks. SB 312 clarifies the responsibilities of both agencies, as currently defined by state regulations and the interim bison management plan. In addition, this legislation would designate the Department of Livestock as the lead agency for actions to remove bison that originate from Yellowstone National Park, a responsibility that currently resides with Fish, Wildlife & Parks per the interim management plan.

We discussed with the sponsor several amendments to SB 312 and appreciate his incorporating those in this bill. With the current amendments, the Department supports this legislation.

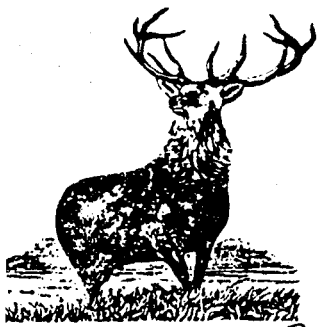


EXHIBIT 3
DATE MARCH 7, 1995
SB 312

Skyline Sportsmen's Association, Inc.

Box 173

Butte, Montana 59703

Rep Doug Wagner, Chairman & House F&G Com.

I have investigated the fiscal statement attached to S.B.312. According to Flo Smith at the Governor's Office of Budget and Program Planning, the \$21,000 per year (Assumption #8) is for Fiscal Years 1992, 1993, and 1994. The direct expenditures are for warden's salaries, travel, and subcontracts. It is important to recognize that overhead, administration, and central services costs (which can amount to as much as 100% of the direct expenditures) are not included in the \$21,000 per year figure.

Over this three year period, the DFWP spent approximately \$63,000 in direct money for controlling brucellosis. Over the same period, 364 buffalo were killed by wardens; 271 in FY 1992, 82 in FY 1993, and 11 in FY 1994 (DFWP provided these figures). I calculate that it cost \$173.08 per bison killed (\$63,000 divided by 364 bison). Approximately 350 bison have been killed so far this year by DFWP wardens and approximately 30 more have been killed by Department of Livestock. Using the \$173.08 figure, the cost this year to DFWP alone is approximately \$60,577.

When I total this up, the direct cost of brucellosis control by DFWP over the past four years is approximately \$123,000. There is little doubt that if overhead and administration were included, the total overall cost would be somewhere in the \$200,000 to \$300,000 range.

The fact is that the hunting public has footed this bill and has received absolutely no benefits. Secondly, we have also lost the use of the wardens for chasing poachers and other legitimate work while they are controlling brucellosis. The fiscal statement says that we will save \$7,350 per year of our license fees under S.B.312. To really be fair, the bill should be amended so that the Livestock Department would have to assume the entire burden of the brucellosis control for the next four years at least. Even then we would still be behind because brucellosis control is about 99% of the reason for the bison control.

Good Luck in Helena,

Steve Antonoli
President

cc: Tony Schoonen
Keith Atcheson
Brian Atcheson



EXHIBIT 7
DATE MARCH 7, 1995
SB 312

Safari Club International

P.O. BOX 1754

BILLINGS, MONTANA 59103

To: House Fish and Game Committee

From: Montana Chapter, Safari Club International
Keith Atcheson, Legislative Committee Member

Re: Senate Bill 312

As I read SB312, MDFWP would NOT be authorized to create a hunt for bison originating from Yellowstone because the legislation classifies them as "diseased" and then states only the Department of Livestock can deal with diseased animals. SB312 does say, however, that MDFWP will cooperate with the Department of Livestock, but it seems fairly clear that they can only create hunts for wild bison or buffalo that are disease free. As best I can tell, we have just about as many "wild" disease free bison in Montana as rhinoceros and elephant.

As a practical matter, we feel the legislation could be amended to read something like: Modify page 4, item (4) to read: "The Department may adopt rules with regard to wild buffalo or bison that have not been exposed to or infected with contagious disease, but are in need of management because of potential damage to person or property, and may further adopt rules with regard to diseased, wild bison or buffalo, when the opportunity for such bison to come in contact with livestock does not exist."

Underlined part is the modification.

Our arguments for such an amendment are:

1. For the MDFWP to be forbidden the option of a hunting season involving the Yellowstone bison herd **eliminates a viable cost-effective management option** which should be considered as one rational alternative in any long-term bison management plan. To eliminate wildlife management options by legislation is biologically and financially inappropriate at best and political micro-management at worst.
2. The World Wildlife Fund and many other international conservation agencies recognize hunting as a viable wildlife management tool. For Montana to ignore hunting of a bison herd that is, both geographically and population wise, out of control is contrary to the principles of maintaining the resource. The fact is, the Yellowstone bison exist in huntable populations in severe need of reduction and they DO enter Montana in areas where contact with livestock is non-existent; specifically the Deckard Flat/Eagle Creek area near Gardiner and some areas around West Yellowstone. To specifically exclude hunting as an option speaks only to political fears and ignores realities regarding herd size, habits, and habitat limits.
3. We want to emphasize that we are not requesting a mandate, but we are requesting that the option of a hunt be created to allow MDFWP, the NPS, APHIS, and others involved in bison management where it is feasible.
4. We also feel that MDFWP and DL financial involvement should be in the least a 50/50 split.

PROPOSED AMENDMENTS
TO SENATE BILL No. 352

Presented to House Fish and Game Committee
March 7, 1995

1. Page 1, Line 17.
Following: "taking of ~~trespassing~~"
Strike: "PUBLIC"
Insert: "publicly owned"
2. Page 1, Line 24.
Following: "taking of a"
Insert: "publicly owned"
3. Page 1, Line 28.
Following: "remove the ~~trespassing~~"
Insert: "publicly owned"

EXHIBIT 6
DATE MARCH 7, 1995
SB 352

TSB352.HP

Senate Bill No. SB 352
March 7, 1995
Testimony presented by Bob Martinka
Montana Fish, Wildlife & Parks
before the House Fish and Game Committee

SB 352 is compatible with the interim bison management plan. We especially appreciate the proposed prohibition of supplemental feeding in a manner that might potentially contribute to disease transmission. This provision addresses a very difficult circumstance that we currently face in the West Yellowstone area. We also appreciate the efforts of the sponsor to work with the Department to develop this legislation.

Please consider the four attached amendments that are offered for clarification.

Attachment

Amendments to SB 352
Third Reading Copy

For the House Fish and Game Committee

Prepared by Fish, Wildlife and Parks
March 7, 1995

1. Page 1, line 25.
Following: "property"
Insert: "and is potentially associating with"
2. Page 1, line 27.
Following: "department"
Insert: "of livestock"
3. Page 1, line 28.
Following: "department"
Insert: "of livestock"
4. Page 1, line 29.
Following: "PROPERTY;"
Strike: "and"
Insert: (b) "the landowner or agent makes a good faith effort to salvage the carcass or carcasses and retain all parts for disposal by the department of livestock; and"
Renumber: Subsequent subsection.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

HOUSE FISH & GAME COMMITTEE

DATE March 7, 1995

BILL NUMBER SB 352

SPONSOR(S) GROSFIELD

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Mike LAHIR	TURNER ENTERPRISES	✓	
Les Graham	Mt. Auction Assn	✓	
	Mt. Dairy Assn	✓	
Cork Mortensen	Brd. of Livestock	✓	
Bob Martha	Dept. Test, Wildlife & Parks	✓	
Tony Schoney	Skyline Anglers		X
Janet Ellis	MT Audubon	X	
Lorna Frank	mt. Farm Bureau	✓	
Stan Frasier	Self	X	X
Bill Holdorf	SKYLINE SPORTSMEN		✓
Al Stark Tom Bloomquist	Mt. Stockgrowers	✓	
CANDACE Torgerson	MT. Cattlemen's Assn	✓	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

HOUSE FISH & GAME COMMITTEE

DATE March 7, 1995

BILL NUMBER SB312

SPONSOR(S) MESARDS

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jes Graham	Mt. Assn. of Auctions Int. Dealers Assn	✓	
Keith Atcheson	MT. CHAPTER SAFARI CLUB INTERNATIONAL Mt Dept of Wildlife		✓
Q. S. S. S.		✓	
Gork Mortensen	Brd. of Livestock	✓	
Bob Mathka	Dept. of Wildlife Parks	✓	
Tony Schooner	Skyline & Amusement		X
W. E. B. B.	MT. Cattleman		
Lorna Frank	MT. Farm Bureau	X	
Stan Frasier	Self		X
BILL HOLDORF	SKYLINE SPORTSMEN		✓
Mt. Stockgrowers Assoc.	Mt. Stockgrowers Assoc.	✓	
MT. CATTLEMAN ASSN	MT. CATTLEMAN ASSN	✓	

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