

MINUTES

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

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN DOUG WAGNER**, on January 17, 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 122, HJR 8
Executive Action: None.

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

HEARING ON HB 122

Opening Statement by Sponsor:

REP. BOB RANEY, House District 26, Livingston stated that the parks belong to Montanans and they should get the final say in whether or not a park gets improved or developed. In his discussions with Montana citizens, they expressed a desire to have more control over Montana parks. The current philosophy of the Department of Fish, Wildlife, and Parks (FWP) is development of park areas. However, many people prefer natural areas. Natural areas are getting consumed with development. Parks are developed to promote tourism. He was not opposed to promoting tourism, but opposed development when it adversely affects Montana citizens. HB 122 strengthens the law requiring public input but also requires public approval before improvements or developments are made. If the majority of the public does not want development, then the FWP should not be allowed to develop the area. Section 3 in HB 122 states the potential impacts must be reviewed before the department proceeds with development.

REP. RANEY foresaw every park becoming developed. Natural areas will disappear with overdevelopment of park areas. In 1991, legislation was passed to require public input. However, the department's final decision is not based on public input. In 1993, the Primitive Parks Act designated 15 parks that will not be further developed. **REP. RANEY** believed maintenance of existing parks should be the department's first consideration. Many sites have weeds and other problems. He handed out a proposed amendment that provides an exception to the "majority rule" for maintenance, weed control, and necessary sanitation. He challenged the opponents to suggest alternatives. **REP. RANEY** submitted a letter from **Wayne Hirst, President, Montana State Parks Foundation**, in support of the bill. **EXHIBIT 1 AND 2**

Proponents' Testimony:

David Wistey, Optometrist, Livingston distributed written testimony in support of the bill. His testimony described the developments FWP had accomplished at the Dailey Lake Park and many of the residents' outrage. Many of the area residents felt that the FWP Department did not listen to public input when they proceeded with developing the park. He also handed out an Environmental Analysis (EA) for Mallard's Rest Fishing Access, a FWP report, and a letter in support of HB 122 from **Larry Lahren, Wilderness Outfitter and Archaeologist**. **EXHIBIT 3, 4, 5, AND 6**

Ben Marr, from Livingston, stated he has been a frequent user of the Dailey Lake Park for 30 years. He expressed support for HB 122 and the amendments offered by **REP. RANEY**. He believed that the FWP had "criminally acted upon the development of Dailey Lake." They did not complete an Environmental Impact Statement (EIS). **Mr. Marr** did not want to be patronized by the FWP. He

wanted to see the area restored to its original state prior to 1994. He thought the department should show remorse and not repeat the mistake.

Gene Lembeke, President, Walleyes Unlimited, expressed support for HB 122. He read and submitted a letter from **Rod Walinchus, President, Trout Unlimited** that also expressed support of HB 122. **Mr. Lembeke** distributed before and after pictures of Dailey Lake to allow the committee members to inspect the changes that the FWP had completed. In his meetings with the FWP Department, they said they would not change camping sites. He alleged the 100 camping sites had been reduced to about 20.

John Darem, Bozeman, testified in support of the bill. He felt the FWP was wrong in proceeding with development despite the fact that public opinion favored no further development. His family used the park frequently and it "does not feel the same" since FWP completed development. In some of the FWP meetings held in Bozeman, the public was informed that there was not enough money to maintain the lake area. The public only wanted some trees and outhouses. He expressed a sincere desire to see the bill pass.

Judy Olson, retired teacher, Livingston, stated she had used the lake for 28 years. She discussed her physical difficulties and why it was important for her to camp close to the lake. She read part of a letter to the editor written to the local paper. The letter was written by a Dailey Lake user. The letter attempted to inform the public of the "atrocities perpetrated at Dailey Lake by the Fish, Wildlife and Parks Department in the name of preservation of natural resources and improvement for public use, in particular, the handicapped." It was their opinion that the area had been turned into a giant parking lot. The project was completed with a federal grant in the absence of an EIS and despite adverse public reaction. The meetings held discussed the fish species and possible improvements. Questionnaires were sent out to about 479 people regarding the use and management of Dailey Lake. The general public was not informed about the meeting, hence not very many people showed to express their opinions. Over half of the respondents felt the park was quite adequate but would like see more trees, toilets, second boat ramp, drinking water, and picnic tables. Instead, the FWP put in 20 foot wide roads and a boat ramp that was improperly poured by the contractor. In addition, a large section of ground had been designated as a vegetation restoration area and prohibited public use. The restroom was placed inside this area. Water levels have dropped and caused damage to ranchers in the area. Handicap sites are not convenient and perhaps dangerous for those who need to use them. Fishing areas have been reduced. People should become more involved in government to ensure that it represents public interests.

Letter from **Rod Walinchus, President, Joe Brooks Chapter of Trout Unlimited** in support of HB 122 was presented for the record.

EXHIBIT 7

Dick Eggar, Livingston, spoke in favor of HB 122. The lake did not undergo major changes until 1994. In his opinion, the developments ruined Dailey Lake.

Wayne Franson, Livingston, said he had used Dailey Lake for the past 13 years and never noticed any problems with the park. The late actions of the FWP in developing the area did not involve the people who use the park. He encouraged the committee to give attention to this matter.

Opponents' Testimony:

Jim Richard, Montana Wildlife Federation, said that **REP. RANEY** has spent many years representing the interests of sportsmen, wildlife, and public resources. However, he felt that this piece of legislation was bad. **REP. RANEY** may be trying to get the public more involved, but this approach is doing the opposite. When public opinion is required, elections, ballots, referendums, and initiatives allow equality of opportunity and participation. HB 122 did not embody these principles but rather counted phone calls, postcards, and letters. The substance of the calls and letters would not be important. He felt this was not a reliable and accurate representation of the general public's wishes. Public comment is part of an involved process. It involves not only getting a sense of where the public stands on an issue but also provides good ideas and helps improve management. A wide range of people from all over the state use and enjoy the parks. Dailey Lake may be an example of poor management, but HB 122 will affect all current and future parks in the state. People that enjoy these public resources should not set up a system where the protection of those sites may be negated by polls and threatening letters. He felt FWP should protect certain areas against erosion and maintain roads. The Montana Wildlife Federation and Montana Audubon Legislative Fund jointly submitted amendments that might work on some of the problems perceived by the proponents of HB 122. The amendments would presumably force the department to consider comments from all relevant sources, particularly public input. **EXHIBIT 8**

Pat Graham, Director, Fish, Wildlife and Parks Department, submitted written testimony in opposition to HB 122. In the case of Dailey Lake, the Department of FWP took actions that caused people pain and anger. A mistake was made in not completing an EIS. It was not intentional. During the past year, 438 Environmental Assessments were made. The Dailey Lake project would have benefited from one of these studies. Contact has been made with some of the proponents to try and resolve some of the problems. His written testimony contended that public participation was a cornerstone to effective government. The department uses many ways to solicit public opinion. Enactment of HB 122 could block projects actually supported by a majority of users. It does not differentiate between the quantity versus the quality of comments received. Putting all decisions of site improvement and development to a popular vote provides undue

encouragement for special interest groups to lobby for their position. This bill would cater to larger, organized groups. Most projects which the department implements are the result of public demand. The department urged the committee to oppose HB 122. **Mr. Graham** also distributed a copy of FWP's construction project procedure. It was a checklist that the department goes through when getting ready to start a project. **EXHIBIT 9 AND 10**

{Tape: 1; Side: B; Approx. Counter: 000; Comments: Tape was turned over in the middle of Mr. Graham's presentation.}

Janet Ellis, Montana Audubon Legislative Fund, presented written testimony in opposition to HB 122. Although they understood the concerns presented by **REP. RANEY**, voting on proposed improvements or developments of a state park or fishing access site is not an appropriate way to make a decision. She also handed out a copy of proposed amendments made jointly with the Montana Wildlife Federation and the Montana Audubon Legislative Fund. The amendments would help ensure that the same occurrences at Dailey Lake would not occur elsewhere. **EXHIBIT 11 AND 12**

Questions From Committee Members and Responses:

REP. BILL TASH asked **Pat Graham, Fish, Wildlife and Parks Department**, if the public was involved in the final decision for developments made at Dailey Lake. **Mr. Graham** said no. Typically an EIS is completed on a project of this nature. The current procedure requires the regional supervisor to sign off and make the final decisions. **REP. TASH** stated that these types of decisions do not have to go before the Fish and Game Commission. **Mr. Graham** said the commission handles land acquisitions, leases and disposals.

REP. ROD MARSHALL asked **Mr. Graham** if grant money was used in the project. **Mr. Graham** explained the department has earmarked funds from the sale of sporting and fishing equipment and a certain amount of motorboat fuel tax called the Wallop-Bureaux, formerly known as Dingell-Johnson funds. Federal funds are matched with state funds. **REP. MARSHALL** asked what triggered the interest in developing Dailey Lake. **Mr. Graham** did not know exactly the reasons behind developing the area. Public surveys showed that 59% of the people indicated there were user conflicts. Another possible reason was concern over the amount of use the lake gets. Improvements for the handicapped were made because it was close to a population of about 10,000. This would provide fishing access for the disabled. Still under debate is whether or not this matter was handled appropriately. **REP. MARSHALL** asked if the conflict between the users and the FWP Department had been solved. **Mr. Graham** said apparently the conflict was not solved. He asked the regional supervisor to speak with the interested parties to try resolving the issue. Clearly, as the project sits now, it is not satisfactory with residents. People have raised legitimate concerns that need to be addressed and the department will do their best. **REP. MARSHALL** said proponents indicated that

there were 100 campsites before the developments, currently there are 17. He asked why there was a drastic reduction. **Mr. Graham** did not have the information and asked **Bruce Raywinkle, Fish, Wildlife, and Parks Department** to address the question. He reported the site plans indicate that there should be about 40 sites available for camping. Camping was excluded on the game range side of the lake during the period of November to May while wildlife occupies the area. **REP. MARSHALL** asked how no EIS could have been completed with the number being significantly reduced. **Mr. Raywinkle** said that it was not the intent of the project. He explained there may have been an error in the signing of the project that excluded camping. They tried to rectify the problem. **CHAIRMAN DOUG WAGNER** pointed out that the department has agreed that they have not resolved the situation.

REP. EMILY SWANSON asked **Mr. Graham** what triggered an EA and why one was not triggered in this case. When an improvement or development of state park or fishing access site significantly changes features then it is subject to public meetings and comment. **Mr. Graham** said the department acknowledged they should have done an EA. This project should have triggered an EA but an oversight occurred. He could not explain at which point the process failed. His supervisor was looking into the matter intensely and some discussion has been held with the residents. The department is contemplating doing an EA now to help mitigate some of the damages. He was not sure changing the law would have affected an internal problem that occurred with Dailey Lake.

REP. SWANSON asked what specifically triggered an EA. **Mr. Graham** replied that they go through the checklist he handed out earlier to determine if there will be significant impact to the environment. In addition, for the Dailey Lake project, they had to comply with Montana Environmental Policy Act (MEPA) guidelines for using federal funds. In this case, an EA should have been triggered. Minor changes, such as changing an outhouse, would not trigger an EA. **REP. SWANSON** asked if the Mallard's Rest Fishing Access Site triggered an EA. **Mr. Graham** said one had been done and was handed out earlier in proponents' testimony. The public currently has an opportunity to provide input.

REP. DICK KNOX mentioned that there was a survey conducted by the department over a period of about 12 months. Approximately 60% of the respondents believed that the facilities were adequate. Only 83 respondent felt the facilities were inadequate. About 146 people wanted to see only minor improvements such as trees, toilet facilities, drinking water, and a boat ramp. He was upset with the lack of responsiveness on the part of the department. **Mr. Graham** said the department had been "soundly chastised" and acknowledged his comments.

REP. DANIEL FUCHS commended the department for recognizing their mistake and making an effort to work towards a solution. He sympathized with the proponents. It appeared the project was completed in an arbitrary manner without deference to the public. He asked **Mr. Graham** how money could be authorized to complete the

project when they were limiting public access with the improvements. **Mr. Graham** said he could not go back through records of the decision because there were none. A concerted effort has been made to rectify the situation. However, the efforts have not been successful. An evaluation was being done on the project. **REP. FUCHS** expressed his respect of the department and encouraged them to resolve the problem.

REP. CHARLES DEVANEY asked **Mr. Graham** if the department was willing to complete substantial project changes to reorganize the area. **Mr. Graham** explained an EIS will be completed so the damage will not be compounded. By going through the EIS process, he hoped damages would be lessened. For example, the designated archaeological sites will be evaluated to determine whether or not they could be dug up and reopened to the people who use the area. **Mr. Graham** said the department was committed to finding solutions.

REP. BRAD MOLNAR asked **Mr. Graham** if there were more people than the proponents who were displeased with the results at Dailey Lake. **Mr. Graham** said he did not know for sure. It seemed as if more people were expressing their dissatisfaction regarding the park's new developments. **REP. MOLNAR** mentioned that development had been completed around Lake Elmo. However, there was a lot of time spent explaining proposed changes to the public as well as obtaining public input. He asked if there was adequate time as well as opportunity for the public to oversee the plans for the lake. **Mr. Graham** maintained that three meetings were held but did not know what occurred at the meetings. At the second meeting, enough public concern was expressed so that a third meeting was held. Clearly not all conflicts were resolved.

REP. MOLNAR asked **Dave Wistey, Optometrist, Livingston**, for his comments. The department said 59% of the respondents to the survey reported conflicts were experienced at the lake. None were specifically defined. He did not believe the conflicts were consequential, however. The FWP meetings were not described to the public as being an Environmental Assessment, but as open houses. He suspected the EA was ignored because most of the people opposed the project at the meetings. At a later meeting, the department notified the public that they were proceeding with the developments.

CHAIRMAN WAGNER asked **Mr. Wistey** if the problems could be straightened out if an EA is performed under the current circumstances. **Mr. Wistey** said it boiled down to trust. He wondered if their comments would be heard when they had not been listened to in the past.

REP. FUCHS stated the department has said they will try to resolve the problem. Some respect should be given to them for that. **Mr. Wistey** alleged that the department misrepresented the project on the grant proposal. He wondered at what point they could reestablish trust.

REP. MARSHALL stated there are two different opinions on the archaeological site. He asked **Mr. Graham** if they would be willing to solicit a third opinion. **Mr. Graham** said he would like to get more information about the matter. However, he agreed a third opinion might be beneficial.

REP. CHASE HIBBARD observed that the committee was straying from the main point. The hearing turned into a review of Dailey Lake rather than HB 122. He respected the proponents' concerns, however, the department expressed it made a mistake and was trying to rectify the problem. He was not sure whether the committee should try and decide whether or not the Dailey Lake project was right or wrong. It was not the title of the bill.

CHAIRMAN WAGNER stated that the opponents' testimony referenced the fact that public input could be both local and out-of-state. He asked **REP. RANEY** if the amendments dealt with this problem. **REP. RANEY** said public input should definitely be limited to Montanans. Further amendments would be needed to take care of this. **CHAIRMAN WAGNER** assumed staff would research and inform the committee if it was constitutional and legal to limit the public input to Montanans.

Closing by Sponsor:

REP. RANEY thought **REP. HIBBARD** had a good point. The bill became swept underneath the Dailey Lake issue. The Dailey Lake grievance was the main reason the bill was drafted. The proponents informed him that they were "just the tip of the iceberg." They supposed that other users of the park would be as outraged once they see what has been done. A third opinion had already been rendered about the archaeological site because the new restroom was placed right in the center of it. **REP. RANEY** believed the amendments he offered negated the opponents' concerns. Maintenance, weed control, and sanitation can be taken care of without public approval. He emphasized the fact that "improvements and developments" are what should be subject to public approval. If the people do not want changes, then none should take place. **REP. RANEY** said that the current movement in government is that people are going to start making more decisions and taking more control. He found it was interesting that money was allocated for developments but not for maintenance. Maintenance should be the department's first consideration, and then further developing or improving a park should be considered. Democracy is best carried out at public meetings where people are in control.

HEARING ON HJR 8

Opening Statement by Sponsor:

REP. MARIAN HANSON, House District 1, Ashland, informed the committee that HJR 8 is short and to the point. It urged the "United States Congress to provide for the reintroduction of .

wolves in every region of the nation that does not presently have a wolf population if wolves are reintroduced in the Yellowstone Park ecosystem." Seven states have wolves. The federal government has taken the position of placing the wolves into Yellowstone Park. This position was opposed by large numbers of people in the ranching community. The wolves, in a short period of time, would impact the ranching industry. It is hoped that HJR 8 will indicate to the federal government how serious Montanans are against the decision to reintroduce wolves into Yellowstone Park.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: Lost one minute toward the end of REP. HANSON'S opening statement.}

Proponents' Testimony:

Jennifer Hill, Montana Stockgrowers and Woolgrowers Associations, submitted written testimony in support of HJR 8. She called attention to the fact that most people who support wolves being in Yellowstone National Park do not live in Montana to deal with the resulting problems. She urged the committee to give careful consideration to the resolution. **EXHIBIT 13**

Lorna Frank, Montana Farm Bureau, appreciated the sentiment behind HJR 8. She said there had been a lawsuit filed in which Montana, Idaho, Wyoming, and American Farm Bureaus are currently involved. They are attempting to stop the introduction of wolves in Yellowstone National Park and in north central Idaho. The Montana Farm Bureau strongly opposes the introduction of wolves in Yellowstone Park or elsewhere in the country and expressed support of HJR 8.

Jean Johnson, Executive Director, Montana Outfitters and Guides Association, said they objected to the method by which the federal government reached the decision of reintroducing the wolves. At the beginning of the process, there was a foregone conclusion that wolves would be reintroduced. She expressed support of the resolution and hoped it would send a message to Congress that Montana wants an end to federal mandates.

Opponents' Testimony:

Stan Frasier, Helena, stated that he really wanted to agree with Rep. Hanson, because he had not ever agreed with her on anything before. He thought there should be more wolves. If there were more wolves in Central Park, for instance, it would probably be a safer place than what it is today. The reintroduction of wolves into Yellowstone Park was opposed by a large number of farmers and ranchers in Montana and other states. **Mr. Frasier** alleged that farmers and ranchers make up less than 6% of the population of the state of Montana. Wolf reintroduction was favored by 80% of the people that commented on it. Quite frankly, he felt the Montana legislature should have more important things to do than deal with issues such as this.

Questions From Committee Members and Responses:

REP. BOB PAVLOVICH stated that according to **Stan Frasier** 6% of the population are farmers and ranchers. He asked **Mr. Frasier** if a poll was taken in this state to determine how many Montanans wanted wolves reintroduced. **Mr. Frasier** said he did not know if there was a Montana poll, but the U.S. Fish and Wildlife Services held hearings and took public comment. This was his source of information.

REP. HAL HARPER asked **REP. HANSON** if there was a program to compensate ranchers who lose cattle to wolves. **REP. HANSON** said there was a compensation program. However, documenting an actual kill by a wolf would require a rancher to babysit his cattle night and day. Before reimbursement takes place, the kill needs to be documented. Often it is extremely difficult to prove a wolf killed a cow.

REP. PAVLOVICH suggested perhaps a license should be issued to hunt wolves. **REP. HANSON** said she would not object to that.

REP. TASH asked **Jennifer Hill** to give an approximate amount of revenue from the 6% of the ranchers and farmers in the state. **Ms. Hill** remarked that the number one industry in Montana is agriculture. She did not have a revenue figure but presumed it would have a huge impact on the 6% of farmers and ranchers.

CHAIRMAN WAGNER asked **Ms. Hill** if the ranchers and agricultural people make up 6% of the population, what percent of the land do they own. **Ms. Hill** did not have that information readily available but could obtain it. **REP. HIBBARD** responded saying that 2/3 of the land is privately-owned and 1/3 is state-owned. The private land is mostly devoted to agriculture, probably about 95%. Agriculture is the largest component in the state's income. Cattle and calves make up the largest portion.

CHAIRMAN WAGNER commented that the U.S. Fish and Wildlife Services held hearings and asked if anyone had attended them. **Mr. Frasier** informed the chairman that a hearing was held in Helena about one year ago and about 300 people attended. He said political processes and hearings were a large part of the \$6 million involved in reintroducing the wolves. The federal government has been working on the project for 20 years and it is part of the Endangered Species Act. **Jean Johnson, Montana Outfitters and Guides Association** said at least two hearings were held at the Civic Center in Helena. However, speakers were chosen by drawing names out of a hat. More opposition was expressed than the media reported. When the process started 20 years ago, it was a foregone conclusion that wolves would be reintroduced. **CHAIRMAN WAGNER** asked **Ms. Johnson** if she received a copy of the final EIS on the wolves. **Ms. Johnson** said she received it but had not read it entirely yet. **CHAIRMAN WAGNER** said he obtained a copy. Some hearings were not accessible to everyone. He questioned the amount of public input.

REP. RANEY remarked that the chairman's comments alluded back to HB 122.

REP. MOLNAR asked **Mr. Frasier** how much of the negative impact would be felt by the 6% ranchers and agriculture and how much would be felt by the 80% who wanted wolves. **Mr. Frasier** said the majority of the negative impact would be on the ranching community. He believed their fears were out of proportion. A lot of "panic talk" has been heard about any kind of change; very often those things that are feared do not come true. Time will tell if wolf reintroduction will be a bad thing. **REP. MOLNAR** said that since he agrees the 6% will absorb all of the negative impact, they should have a larger voice rather than the 80% who are not affected. **Mr. Frasier** said that in Montana it has been a long-standing tradition of "one cow, one vote," but hopefully a change will get around that. He mentioned the discussion about how much land farmers own. However, it seemed to him that more wealth should not equate to more votes. Wolves will have the greatest impact on ranchers, but there is supposed to be a mitigation project to reimburse them for their losses. Concern was expressed in earlier discussion about verifying wolf kills. He asserted in some cases when cattle die, coyotes and vehicles are blamed when they were not really the cause. Pathologists do a decent job determining the cause of death. He thought ranchers would get fair reimbursements for their losses.

REP. HIBBARD asked **Mr. Frasier** if he knew how long a carcass would remain recognizable in the summer months. **Mr. Frasier** said he did not. **REP. HIBBARD** maintained that when the temperature is over 80 degrees, within 24 hours it becomes extremely difficult to discern parts of the cattle. Quite often, the carcass is not found immediately. When it is found, it is nearly impossible to determine cause of death.

CHAIRMAN WAGNER stated wolves are located in Flathead and Glacier. They migrated from Canada. The large percentage of impact may be on ranchers and farmers but hunters will also feel it. In the North Fork of the Flathead Drainage, there is no cow elk hunting season. By the time an evaluation of the 100 permits was done, it was reduced to 20. The reason is because of the wolf population growth. He participated in the 3rd annual Montana Wolf Working Group Committee hearing in Whitefish. While at the hearing, he was informed people were worried about nothing. However, he was advised by the Wisconsin Department of Natural Resources that roads were closed to save the wolves. Lack of road access will be another issue.

Closing by Sponsor:

REP. HANSON said HJR 8 is a serious resolution. There will be impacts to many people in Montana in a short amount of time and in many ways. Wolves are predators and they do not care what they track. Hunting is gone in Minnesota. She has read in newspapers where wolves are "eating dogs off the end of their

chains in yards." **REP. HANSON** declared a strong message must be sent to Washington D.C. that Montanans do not want wolves. Pioneers in this country were so intimidated by wolves that they hunted them. They feared for the safety of their families and livestock. She urged the committee to pass the resolution.

ADJOURNMENT

Adjournment: 4:50 p.m.

Douglas T. Wagner

REP. DOUG WAGNER, Chairman

Mary Riitano

MARY RIITANO, Secretary

DG/mr

HOUSE OF REPRESENTATIVES

Fish and Game

ROLL CALL

DATE *January 17, 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	✓		

EXHIBIT 1
DATE January 17, 1995
HB 122

Amendments to House Bill No. 122
Introduced Reading Copy

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

Prepared by Doug Sternberg, Legislative Council
January 17, 1995

1. Title, line 9.

Following: "COMMENTS;"

Insert: "PROVIDING AN EXCEPTION FOR MAINTENANCE, WEED CONTROL,
AND NECESSARY SANITARY AND SAFETY MEASURES;"

2. Page 2, line 11.

Following: "comments."

Insert: "Maintenance, weed control, and necessary sanitary and
safety measures are exempt from the public approval
requirements of this subsection."

Montana State Parks Foundation, Inc.

EXHIBIT 2
DATE January 17, 1994
HB 122

59

January 17, 1994

To: Rep. Bob Raney
Capitol Building
Helena, Montana

Dear Rep. Raney:

I am sorry I can not make it to your hearing on HB 122, but my comments on the bill follow.

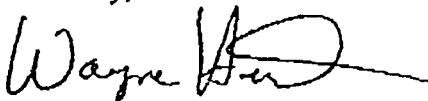
Mr. Chairman and members of the committee:

I wish to support HB 122 for the reason that the people own our State Parks and fishing access sites, and they should be able to deny development that they don't want at these sites. Just because a government agency wants to proceed with a development, that doesn't mean it should be done if the people don't think it should be done.

Besides saving money now and in the future, this would make the Department plan development projects that are supported by the people who own the sites. Currently, the Department can proceed with any type of development it wants, regardless of what the people think.

For long term support of our Parks, the people must feel they have a say in what is going to be done with the Parks, and this bill would add to people's support and involvement in our State Park system, because they would then know that they really do have a say in what is being planned for our Parks future.

Sincerely,



Wayne Hirst
President
Montana State Parks Foundation, Inc.

EXHIBIT 3
DATE January 17, 1995
HB 122

Address To House Committee
Hearing For HB 122-Raney
Room 104

January 17, 1995

LADY:
Gentlemen:

I am here today to tell you why I support Representative Raney's amendment. I am here to tell you about a wonderful little primitive recreational area in southern Park County called Dailey Lake. The resource that we once enjoyed no longer exists for most of its users.

I have been a frequent user of this very popular area for 13 years. This is the lake on which two of my sons and I learned to windsurf. The famous and frequent winds blowing through the area make this 200 acre lake the best windsurfing site for hundreds of miles around. During calmer times, the site has provided excellent fishing from shore, float tubes, and boats. Water skiers and jet skiers also used the area along with picnickers, swimmers, and the camping public, who all were drawn to this lake — an oasis in the high desert environment.

In the years prior to 1994, parking and camping sites distributed around the east and north shores would accommodate 60 - 80 recreational vehicles, including tenters. This came to an end at the completion of the Department of Fish, Wildlife, and Parks' desecration project of 1994. The area now will accommodate approximately 17 units.

Unneeded new 20-foot-wide roads gouge through former parking and camping areas. Five to six hundred creosoted railroad ties have been cemented into the ground to prevent users from achieving that all-important elbow room. The east shore — best for tying up boats during wind — is closed for overnight camping. Large concrete parking slabs are connected by concrete sidewalks which snake through three different areas to finally link with three new latrines for the handicapped.

I am here to tell you about an agency which is out of control. This about discrimination, fraud, waste, and abuse. This is a story I do not like to tell, but I do not like to be lied to or discriminated against by an agency whose director has tried to assure me that FW&P does not conduct business this way. Apparently, Director Graham is misinformed.

° **Question for Committee:** Is Dailey Lake Fishing Access Site open for public use? Assumed answer — Yes.

Then why did fisheries biologist, Brad Shepard, tell me that windsurfers had no right to be at the lake because the area was bought and paid for by fishing license dollars and that we windsurfers didn't contribute to his salary? (I had a current fishing license in

my billfold.) Mr. Shepard once shouted at me, "I'm going to call my boss in Helena and tell him not to give you windsurfers anything that you want at Dailey Lake."

Prior to starting construction at the lake, FW&P was required by state law and by the Department's own rules to produce an Environmental Assessment — but failed to do so. FW&P agents told us at one of their meetings that an EA was not necessary due to the small size of the project. FW&P fraudulently deceived the public. We were led to believe that we were attending meetings at which our comments would be considered, but we were lied to and our requests were ignored. We pleaded with the agents not to build the new 20-foot-wide road right through the middle of the most popular camping site, but they bulldozed through anyway. There was no legitimate need for this road. It was put in to carve up the area and reduce user space — already limited at this small area.

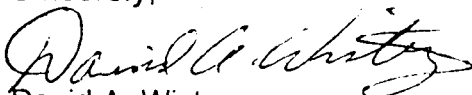
The Department wasted most of a federal grant of \$150,000 of tax payers' money on a project that most of the users did not want. According to the Department's own "Dailey Lake User Survey", (Shepard, 1992), 64% of the respondents said facilities at the lake were adequate or more than adequate for their needs. The Department abused its power and demonstrated that it exists for its own benefit — not for the recreating public at Dailey Lake.

Bruce Rehwinkel, the agent responsible for producing the EA, telephoned me after the project was completed and said he wanted to apologize for not doing an EA. He told me he just "forgot" to do it. I regard this as an insult to my intelligence, and one more example of the questionable character of Department personnel.

The Department broke state law and its own administrative rules and policy in not producing an EA or EIS for this project. The Department showed a callous disregard for the fragile physical environment and showed no regard for the human environment at Dailey Lake. The Department did not follow the guidelines set forth by the Montana Environmental Policy Act (MEPA), but claimed compliance with MEPA in its application for the federal grant from the U.S. Fish & Wildlife Service. This is sometimes called "fraud".

FW&P is charged to promote optimum recreational opportunities for Montanans and their guests, not to reduce them. The Department has shown it is out of phase with today's recreationalists. We want our beautiful little recreation area back and we do not want FW&P to deceive and to shut out the public from other traditional recreational sites in Montana.

Sincerely,



David A. Wistey

POB 1258

Livingston MT 59047

DEPARTMENT OF FISH, WILDLIFE AND PARKS
 1420 E 6th Ave, PO BOX 200701, Helena, MT 59620-0701
 (406) 444-2535

ENVIRONMENTAL ASSESSMENT

Project Title Mallards Rest Fishing Access Site Renovation

Division/Bureau Fisheries

Description of Project The proposed construction project will upgrade the site roads, improve and add parking capacity, install vehicle barriers and install a handicapped accessible latrine.

POTENTIAL IMPACT ON PHYSICAL ENVIRONMENT

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS ON ATTACHED PAGES
1. Terrestrial & aquatic life and habitats				X		
2. Water quality, quantity & distribution			X			X
3. Geology & soil quality, stability & moisture			X			X
4. Vegetation cover, quantity & quality			X			X
5. Aesthetics				X		
6. Air quality				X		
7. Unique, endangered, fragile, or limited environmental resources				X		
8. Demands on environmental resources of land, water, air & energy			X			X
9. Historical & archaeological sites				X		X

EXHIBIT _____

DATE _____

HB _____

STANDARD ELEMENTS OF AN ENVIRONMENTAL ASSESSMENT

- 1) Description and location of the proposed action.
- 2) Purpose and need for the action.
- 3) A listing of other agencies with overlapping jurisdiction.
- 4) An evaluation of the impacts to the physical environment.
- 5) An evaluation of the impacts to the human environment.
- 6) A description of alternatives.
- 7) A listing of the public involvement.
- 8) A determination of need for an EIS.
- 9) The name of the individuals responsible for EA preparation.

FROM:
GRAHAM
12-5-94

EXHIBIT 5
DATE January 17, 1995
HB 122

DRAFT

RECEIVED

APR 16 1992

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS
FISHERIES DIVISION
JOB PROGRESS REPORT

FISHERIES DIV.
DEPT. FISH WILDLIFE & PARKS

STATE: MONTANA PROJECT TITLE: STATEWIDE FISHERIES INVESTIGATIONS
PROJECT NUMBER: F-46-R-2 STUDY TITLE: SURVEY AND INVENTORY OF COLD WATER LAKES
JOB NUMBER: I-F JOB TITLE: DAILEY LAKE USER QUESTIONNAIRE RESULTS
PROJECT PERIOD: JULY 1, 1990 THROUGH JUNE 30, 1991

ABSTRACT

During the fall through winter period of 1990/91 a total of 479 survey questionnaires were sent to users of Dailey Lake to determine their use and desires for management of Dailey Lake. Potential participants in this survey were solicited from contacts made during a 1990 creel and recreational user census at Dailey Lake, from local angling groups, and with sign-up sheets at local businesses. A total of 247 (52%) completed questionnaires were returned. Of the 247 completed forms, a total of 200 respondents (81%) had fished Dailey Lake within the previous five years. Of those anglers which answered questions regarding angling preferences, rainbow trout was the most sought after species with yellow perch and walleye second and third. Rainbow trout was the species most anglers who responded desired to see in the lake, followed closely by walleye. Yellow perch was the third species most anglers desired to see. The majority of respondents ranked fishing as their number one reason for recreating at Dailey Lake (160 respondents ranked it number 1), followed distantly by wind surfing (21 respondents ranked it as number 1). Camping and motor boating were the two activities which had the highest number of respondents ranked at the number 2 most important activity (50 and 24 respondents, respectively) which suggests these two activities are done in conjunction with other activities, most likely angling and wind surfing. Over half (136 or 59%) of the respondents indicated that they had experienced a conflict with another user group. Of these respondents that experienced a conflict, user groups which caused the conflict were identified as water skiers (51 respondents), motor boats (45 respondents), wind surfers (40 respondents), anglers (17 respondents), and campers (7 respondents). Over half the respondents believed the existing facilities were adequate (137 or 60%). For the 83 (36%) respondents who felt they were less than adequate, trees, toilets, boat ramp, drinking water, and picnic tables were the facilities most cited as needed.

2490
see p. 10

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

INTRODUCTION

Dailey Lake is a popular recreation spot for people in the upper Yellowstone River valley and has become increasingly popular for people from the broader region extending from Bozeman to Billings.. Dailey Lake represents a limited resource in that it is one of the few lowland elevation lakes in the region which is larger than 200 acres with open public access. The lake has historically provided anglers with an opportunity to catch rainbow trout, kokanee salmon, and yellow perch in a lake environment. Use of Dailey lake by water-based recreational users such as wind surfers and water skiers has increased dramatically during recent years. The objective of this questionnaire survey of Dailey Lake users was to:

1. Determine the types of recreational users which were presently using Dailey Lake;
2. Find out what species of fish anglers were presently seeking and what species of fish anglers desired to see in Dailey Lake;
3. Determine what level of conflict existed between user groups and what types of user groups were causing most of the conflict, if any occurred; and
4. Find out what level of development users desired at Dailey Lake, what types of development was deemed most needed, and what level of commitment users would be willing to make to provide increased facilities.

METHODS

During the fall and winter of 1990/91 a total of 479 survey forms were sent out to people interested in the management of Dailey Lake. Potential interested individuals were contacted by: 1) users of Dailey Lake were asked to provide a creel clerk with their names and addresses if they were willing to fill out a survey form; 2) membership lists were solicited from local Trout Unlimited, Walleye Unlimited, and Yellowstone Fly Fisher groups; and 3) contact sign-up sheets were placed in local businesses around the area asking the public to provide their names and addresses if they were willing to participate. The survey form asked questions about angling use and preferences; what recreational uses were most popular; if respondents had experienced any conflicts and how they recommend reducing conflict; and whether respondents believed recreational facilities were adequate (Appendix A). Completed survey forms

April 8, 1992

Page - 2

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

were entered into a dBase III+ data file and summaries of responses to each question were done within dBase III+.

Respondents were asked to rank potential options in several questions. Percentage of respondents which ranked a particular item as rank one, two, or three were calculated based on the total number of respondents which ranked any choice as one, two, or three, respectively. Where respondents did not rank potential options, but placed an "X" or check mark, summary results show both the number of responses for each rank and the number of non-ranked "X" or checked responses, but percentages for unranked responses were calculated based only on total number of unranked responses.

RESULTS

Of the 479 survey forms sent out a total of 247 were returned (52%). Of the 247 returned forms 23 (9%) were returned by respondents contacted through sign-up sheets at local businesses, 49 (20%) from respondents contacted using Trout Unlimited's membership list, 40 (16%) from respondents contacted using Walleye Unlimited's membership list, 9 (4%) from respondents contacted using Yellowstone Fly Fisher's membership list, and 126 (51%) from Dailey Lake user contacts. Of the Dailey Lake users, 91 (37%) were anglers and 35 (14%) were other recreational users. The remaining analyses were done from the 247 completed survey forms.

Angler Use and Preferences

$$\frac{91}{126} = 72.2\% \text{ fishes}$$

A total of 200 (81%) of the respondents had fished Dailey Lake within the past five years. Forty respondents had not fished the lake within the past five years and seven did not answer. While only those 200 which had fished Dailey Lake within the past five years were supposed to answer questions on angling, from 202 to 205 respondents answered angling questions (Table 1). Most anglers had fished one to five days per year (Table 1 and Figure 1). Rainbow trout was the species of fish most sought (ranked number 1) with yellow perch and walleye following (Table 1 and Figure 2). Most anglers indicated they were interested in catching both quantity (numbers) and quality (size) of fish, but for anglers expressing a preference, more were interested in size of fish (Figure 3).

When anglers were offered the choice of any possible species, rainbow trout and walleye were the two species anglers selected most often as the number one species they would prefer to angle for in Dailey Lake (Figure 4). Yellow perch was the third most often selected species as a number one choice and the

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

species most often selected as a second choice. Other species mentioned in decreasing order of preference were brown trout, kokanee salmon, crappie, cutthroat trout, smallmouth bass, largemouth bass, bluegill, tiger muskie, brook trout, northern pike, and burbot based on the sums of first and second choices.

Forty-four percent of the anglers did belong to a national angling organization, while 49% belonged to local angling or sporting organizations (Table 1). Some anglers belonged to more than one local or national organization. Both the local and national Trout Unlimited and Walleye Unlimited organizations were the groups to which the majority of respondents belonged (Figure 5).

Other Recreational Activity

Anglers made up the majority of recreational users using Dailey Lake (77% of respondents who ranked their use in the number 1 rank ranked angling first)(Table 2 and Figure 6). Wind surfing was ranked as the next most important activity with campers, water skiers, and motorboat users following. It was interesting to note that respondents ranked camping as an important activity, but that it usually ranked number 2 or 3. This result suggests that recreational users camp at Dailey Lake, but that camping is secondary to some other primary activity such as angling and wind surfing. Many of the boating activities (motor and row boating and canoeing) were also secondary to primary activities such as angling and water skiing. Of the 244 respondents which answered the question on number of trips per year they normally make to Dailey Lake the majority made one to five (41%) or six to ten (21%) trips per year (Figure 7).

To assess how much conflict users perceive is occurring at Dailey Lake respondents were asked if they had experienced dissatisfaction because of conflict with any other users. Of the 232 respondents which answered this question, 96 (41%) had experienced some dissatisfaction due to conflict (Table 2). While 96 respondents said they had experienced conflict, a total of 103 respondents responded that at least one user type had impacted their recreational activity. The user groups which appear to be causing the most conflict are water skiers (51 respondents), motorboats (45 respondents), and wind surfers (40 respondents)(Table 2). Seventeen respondents reported conflicts where anglers were cause for conflict, but six of these respondents also reported conflicts with motorboats. I am unsure if these conflicts involved anglers in motorboats, or if these respondents had separate incidents of conflict with anglers and motorboats. Of the 45 respondents who reported conflicts with motorboats occurred, 26 of those respondents also reported

April 3, 1992

Page - 4

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

Table 1. Number of responses (percentage) for Dailey Lake angler user survey conducted during 1990.

Question	No rank	Rank		
		1	2	3
<u>Fish Dailey</u>				
Yes	200 (81)			
No	40 (16)			
No answer	7 (3)			
<hr/>				
Total	247			
<u>Days fished/year</u>				
1 to 5	82 (41)			
6 to 10	48 (24)			
11 to 20	49 (24)			
20 +	23 (11)			
<hr/>				
Total	202			
<u>Species preference (208 responded)</u>				
Rainbow trout	23 (35)	82 (46)	35 (26)	28 (31)
Yellow perch	23 (35)	45 (25)	52 (38)	26 (29)
Walleye	18 (28)	43 (24)	46 (34)	27 (30)
Any fish	0 (0)	7 (4)	3 (2)	4 (4)
Other species	1 (0)	1 (1)	1 (1)	4 (4)
<hr/>				
Total	65	178	137	89

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

Table 1. Continued.

Question	No rank	Rank		
		1	2	3
<u>Number or size</u> (204 responded)				
Both number and size	128 (62)			
Size of fish	37 (18)			
No preference	22 (11)			
Number of fish	18 (9)			
<hr/>				
Number responding	205			
<u>Seasons fished</u> (204 responded)				
Summer	164 (60)			
Spring	107 (52)			
Winter	79 (39)			
Fall	72 (35)			
<hr/>				
Number responding	204			
<u>Species preference</u> (203 responded)				
Rainbow trout	1 (5)	72 (36)	27 (14)	
Walleye	6 (33)	69 (35)	32 (16)	
Yellow perch	4 (22)	26 (13)	40 (20)	
Brown trout	1 (5)	7 (4)	22 (11)	
Kokanee salmon	0	8 (4)	17 (8)	
Crappie	1 (5)	3 (1)	18 (9)	
Cutthroat trout	1 (5)	5 (3)	13 (7)	

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

Table 1. Continued.

Question	No rank	Rank		
		1	2	3
Response options				
Smallmouth bass	1 (5)	3 (1)	12 (. 6)	
Largemouth bass	0	5 (3)	7 (4)	
Bluegill	1 (5)	0	5 (2)	
Tiger muskie	0	1	3 (1)	
Other	2 (11)	1	1	
Total	18	200	197	

National organization member (237 responded)

Trout Unlimited	50 (25)
Walleye Unlimited	36 (18)
Federation Fly Fishers	22 (11)
Other	7 (3)
None	149 (74)

Number anglers 202

Local organization member (238 responded)

Joe Brooks TU	41 (20)
Livingston WU	32 (16)
Park Co. Rod and Gun	11 (5)
Montana Sportsmen	3 (1)
Other	14 (7)

Number anglers 202

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

Table 2. Number of responses (percentage) for Dailey Lake recreational user survey conducted during 1990.

Question Response options	No rank	Rank		
		1	2	3
<u>Type of Activity (231 responded)</u>				
Fish	21 (24)	160 (77)	13 (10)	3 (3)
Wind surf	4 (5)	21 (10)	1 (1)	1 (1)
Camp	16 (18)	9 (4)	50 (37)	21 (22)
Motorboat	8 (9)	1	24 (18)	7 (7)
Water ski	3 (4)	3 (1)	4 (3)	15 (16)
Swim	7 (8)	1	5 (4)	17 (18)
Row boat	5 (6)	0	12 (9)	5 (5)
Bicycle	2 (2)	5 (2)	4 (3)	2 (2)
Hike	4 (5)	3 (1)	7 (5)	8 (8)
Sunbathe	5 (6)	0	6 (4)	8 (8)
Canoe	4 (5)	0	4 (3)	6 (6)
Other	9 (10)	5 (2)	4 (3)	2 (2)
<hr/> Total	<hr/> 88	<hr/> 208	<hr/> 134	<hr/> 95

Conflict experienced (232 responded)

No	136 (59)
Yes	96 (41)
<hr/> Total	<hr/> 232

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

Table 2. Continued.

Question	No rank	Rank		
		1	2	3
<u>User which caused conflict</u> (103 responded)				
Water skier	51 (26 also motorboat)			
	(50)			
Motorboat driver	45			
	(44)			
Wind surfer	40			
	(39)			
Angler	17 (6 also motorboat)			
	(17)			
Camper	7			
	(7)			
Swimmer	1			
	(1)			
Canoeist	1			
	(1)			
Row boat	1			
	(1)			
Hiker	1			
	(1)			
Bicyclist	0			
Sunbather	0			
<u>Suggested alternatives to reduce conflict</u> (131 responded)				
No restriction	49			
	(37)			
Ban certain user groups	37			
	(28)			
Restrict user group to portions of lake	22			
	(17)			
Restrict user group to specific time	12			
	(9)			
More than one restriction	11			
	(8)			
Total	131			

conflicts with water skiers. Again, I am unsure if these reports represent water skiers in motorboats. A total of 70 (68% of the conflicts) involved either motorboats or water skiers. It appears that most conflicts are occurring between motorboat users and other users, particularly anglers and wind surfers.

Respondents were asked to suggest alternatives for reducing the number of conflicts. Of the 131 respondents which answered this question, 49 (37%) preferred no restrictions, 37 (28%) preferred to ban certain users from the lake, 22 (17%) preferred restricting certain groups to various portions of the lake (spatial separation), and 12 (9%) preferred restricting certain user groups to certain use time periods (temporal separation). Eleven respondents (8%) answered with more than one preference.

Recreational Facilities at Dailey Lake

64% } Of the 230 respondents which answered the question regarding whether the recreational facilities at Dailey Lake were adequate, 137 (60%) believed the present facilities were adequate, 10 (4%) believed the present facilities were more than they needed, and 83 (36%) believed the present facilities were inadequate (Table 3). While only 83 responded that the facilities were inadequate, 146 respondents wanted to see additional facilities (Table 3). The additional improvements respondents wanted most to see, in decreasing order of preference, were additional trees, additional toilet facilities, drinking water, another boat ramp, and more picnic tables (Table 3).

Respondents were asked what they would be willing pay or do to have additional facilities. A total of 125 respondents answered this question. The majority preferred paying either \$2.00 per lake trip or \$10.00 annually, or donating their time to build the facility (Table 3). In an attempt to force respondents to back up their willingness to pay or donate time, respondents were asked to provide their names and addresses if they indicated they were willing to pay more or help. A total of 75 respondents provide their names, and 70 of these also provided their addresses.

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

Table 3. Number of responses (percentage) for Dailey Lake survey conducted on needed facilities during 1990.

Question	No rank	Rank		
		1	2	3
<u>Are facilities adequate</u> (230 responded)				
Adequate	137 (60)			
Less than needed	83 (36)			
More than needed	10 (4)			
<u>Needed additional facilities</u> (146 responded)				
Trees	21 (20)	27 (28)	18 (24)	10 (16)
Toilets	13 (12)	15 (15)	12 (16)	4 (7)
Boat ramp	9 (9)	19 (19)	7 (9)	7 (11)
Drinking water	19 (18)	13 (13)	7 (9)	12 (20)
Picnic tables	7 (7)	7 (7)	7 (9)	3 (5)
Boat dock	5 (5)	2 (2)	7 (9)	2 (3)
Wind meter	4 (4)	2 (2)	6 (8)	5 (8)
Picnic shelters	7 (7)	2 (2)	4 (5)	5 (8)
Better beaches	2 (2)	3 (2)	1 (1)	2 (3)
Barbecues	4 (4)	0	4 (5)	5 (8)
Trailer hook ups	2 (2)	3 (3)	0	1 (2)
Showers	2 (2)	1 (1)	0	1 (2)
Swimming buoys	2 (2)	0	0	2 (3)
Other	7 (7)	4 (4)	3 (4)	2 (3)
Total	104	98	76	61

NOTE!
 HEPARD'S PERCENTAGES ARE MISLEADING - HE COMPARES NUMBER OF USERS WANTING TREES TO NUMBER OF USERS WANTING MORE FACILITIES. TO BE CORRECT HE SHOULD HAVE COMPARED TREES WANTED TO TOTAL RESPONDENTS!
 All Winters
 $\frac{21}{230} = 9\% \neq$
 NOT 20%!

Table 3. Continued.

Question Response options	No rank	Rank		
		1	2	3
<u>Willing to do following (125 responded)</u>				
\$2 per visit	4 (22)	28 (24)	8 (21)	0
\$10 per year	2 (11)	23 (20)	8 (21)	1 (10)
Donate time	7 (39)	23 (20)	9 (24)	4 (40)
Nothing	0	15 (13)	2 (5)	2 (20)
\$20 per year	2 (11)	12 (11)	4 (11)	0
\$5 per visit	1 (5)	9 (8)	3 (8)	1 (10)
Pay for and install the facility	1 (5)	0	3 (8)	1 (10)
Other	1 (5)	4 (4)	1 (3)	1 (10)
<hr/> Total	<hr/> 18	<hr/> 114	<hr/> 38	<hr/> 10

EXHIBIT 5
DATE 1-17-95
HB 122

DRAFT - 1990/91 DAILEY LAKE USER QUESTIONNAIRE

Prepared by: Bradley B. Shepard

Date: April 8, 1992

Waters Referred to: Dailey Lake 22-7644

Key Words: management, user preference, angler preference, rainbow trout, yellow perch, walleye, facilities, user conflict, questionnaire

EXHIBIT 7
DATE January 17, 1995
HB 122



JOE BROOKS CHAPTER
P. O. Box 1378
Livingston, MT 59047

Jan 13, 1994

To whom it may concern,

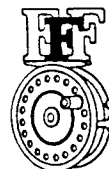
This letter is in support of Walleye Unlimited and the various other groups in seeking a solution to the problems at Dailey Lake. As this area serves multiple uses and meets the needs of many diverse factions, we would like to see prudent judgement exhibited in its development. The needs of all groups involved should be taken into consideration.

We hope all involved can come to a mutually beneficial solution.

Sincerely,

A handwritten signature in black ink that reads 'Rod Walinchus'.

Rod Walinchus, President
Joe Brooks Chapter of Trout Unlimited.



FEDERATION OF FLY FISHERS
Conserving - Restoring - Educating Through Fly Fishing



LARRY LAHREN

- Wilderness Outfitter - Ph.D. Archaeologist
Post Office Box 1218
Livingston, MT 59047
(406) 222-3168 • FAX (406) 222-6684

EXHIBIT 6
DATE January 17, 1995
HB 122

December 28, 1994

David Wistey
Box 1258
Livingston, Montana 59047

Greetings Dave:

Thanks for contacting me regarding my opinion about the archaeological (cultural resources) work that has been conducted at the Dailey Lake fishing access location. One of the current problems confronting the archaeological profession is the loss of public support because in some instances archaeological sites have been used to log jam or stop projects without proper documentation of significance. In our phone conversation you implied that you had that feeling from your communications with the Department of Fish, Wildlife and Parks. Thus, I am going to review the archaeological work at the Dailey Lake fishing access location on a pro bono, public service basis.

I have read the following reports prepared by Stephen A. Aaberg that I obtained from the State Historic Preservation Office (they pass final review on all project reports);

1991- Cultural Resources Survey of the Dailey Lake Fishing Access Site and Environs.

1992- Evaluation Phase Testing of 24PA975 at the Dailey Lake Fishing Access Site.

1993- The Dailey Lake Fishing Access Site (24PA975) Surface Collection Site.

My comments regarding these reports are as follows:

1. The Department of Fish, Wildlife and Parks did not solicit this project to all qualified consultants and it does make one suspicious of their motivations and objectivity.
2. In general, I am not impressed with the methods, techniques, conclusions and shoddy quality of the report. The area has been heavily impacted by the general public and the DFWP prior to the survey and I do not think that the report

adequately evaluates the depositional history and integrity of the cultural deposits.

3. I am ethically bound not to disclose the location of cultural resources to the general public in this context. However, I believe that you feel that the DFWP is using the archaeology of the area to prevent windsurfing, rather than to protect archaeological sites. Thus, the question that needs to be specifically addressed is: Will use of the **specific** proposed(or current) windsurfing launch area adversely affect any National Register sites? This question can be answered by: (1) adequately evaluating the site by locating features and artifacts that will yield information important to prehistory (and I might add not the kinds of unanswerable questions that Aaberg(1993:25-27) was asking) and correlating the actual present and future impacts to the specific National Register area that will be impacted.

In summary, I feel that the DFWP did an "after the fact", CYA, cultural resource evaluation of this area. I empathize and to some degree professionally apologize for the technocratic frustration you are experiencing. It is definitely the kind of situation that makes archaeologists look bad to the public.

Hopefully, this will answer some of your questions. If you would like to discuss the problem or would like to clear up some of the jargon ,please contact me.

Best Regards,


Larry

EXHIBIT 8
DATE January 17, 1995
HB 122

House Fish and Game Committee
January 17, 1995

Amendments to HB 122

Submitted by:

Montana Audubon Legislative Fund and Montana Wildlife Federation

Page 2, Line 4

Following: "record"

Insert: "and weigh carefully"

Page 2, Line 6

Following: "otherwise."

Strike: the remainder of the paragraph

Insert: "The department shall issue a written finding of fact that describes the public comment and specifies the reasons for its decisions."

EXHIBIT

9

DATE January 17, 1995

HB

122

TH1220.H

Bill No. HB 122
January 17, 1995
Testimony presented by Pat Graham,
Montana Fish, Wildlife and Parks
before the House Fish and Game Committee

Citizen participation is the corner stone of effective government. The Department and Commission use a variety of ways to involve people in setting seasons, managing species, developing recreation sites and in other decision processes. Citizen involvement efforts include MEPA, Commission hearings, surveys, open houses, advisory committees and more.

House Bill 122 is a complete divergence from these approaches, in particular the Montana Environmental Policy Act (MEPA). For example, MEPA requires full consideration of all impacts, issues and alternatives when contemplating an action such as a fishing access site (FAS) or park improvement. Already over 50 different regulatory or legal requirements must be satisfied before public demand for recreational improvements can be met. Public opinion and involvement are important to the implementation of these existing laws, but they are not the only elements considered in the decision-making process. Important issues involving federal and state legal requirement, the long term interests of the resources and land conservation, and best professional judgement must also be considered. This comprehensive process is already in place and already governs the agency decision process along with other legal mandates. Federal and state requirements such as found in the Americans with Disabilities Act, the State Historic Preservation Act, the Antiquities Act, and the Occupational Safety and Health Act cannot be overridden by a simple popular vote. Nor can consideration of human and environmental health in providing water and disposal of sewage, the need to prevent soil erosion, control weeds or prevent the destruction of valuable resources be overridden by a popular vote.

Time is an increasingly precious commodity for most people in our society today. Experience shows that public comment is most often provided by those who have concerns about a project. Supporters tend not to expend the energy to express their opinion on projects with which they agree. Thus, view of participants in public involvement process may not represent a cross-section of the interested public. Enactment of this bill could easily lead to blocking of projects actually supported by a majority of users. It also does not differentiate between the quantity versus the quality of comments received.

Putting all decisions of site improvement and development to a popular vote provides an undue encouragement for special interest groups to lobby for their position. This bill would cater to

larger, more organized groups, in-state or out-of-state, to initiate letter writing campaigns or petitions to accomplish their goals. Consider for a moment if we put the hunting of mountain lions and bears to a public vote.

Voting has its place in our society, but it also creates a system of winners and losers, and the collaboration of interests toward a common goal is often dissuaded. We have had conflicts between groups: motorized versus non-motorized, natural area advocates versus those who want or need more services to be able to use a site, adjacent landowners versus recreationists, non-residents versus Montanans. If this bill is passed, these conflicts will be fueled as one group seeks to overpower the other to win the vote. Abuses of the process will require more administrative costs and oversight--more government, not less.

Consider an analogy: the legislature. What if your decision criteria for passing a bill out of a committee was changed so that the only factor you could ultimately consider was how many people testified in favor of a bill or opposed it? In many cases, many opponents to a bill signals the bill may be a bad idea. But is this always the case? You make decision's on how to vote on a bill based upon the quality and validity of the points made in testimony, not simply how many people testified pro or con. MEPA provided the same latitude to make management decisions about projects like FAS and state parks.

People want less rules and more streamlined procedures not more government and procedural requirements. Our constituents want a more productive and efficient government. We believe HB 122 would lead to inefficiency and gridlock.

The 24 month provision would be a hindrance to collaborative problem solving and increase the costs of recreational improvements. It would be a deterrent to resolution of issues, encouraging impasse and complicating processes.

Most projects which the department implements are the result of public demand. These projects are well supported by most users and contribute to the well being of the resources and their users. The Department continues to seek better ways to involve our diverse publics and obtain their input. If you believe passage of this measure is necessary, then you should amend this bill to grant rule making authority to promulgate rules necessary to assure that the procedure to assess majority opinion is fair, considers all interests and is managed consistently. Those who are not satisfied with the existing public processes such as MEPA would surely not be satisfied with voting unless they understand how the game will be played.

We believe this bill runs counter to the Department's legal mandates, and appears to run counter to the principles of good government. We urge you to oppose HB 122.

Construction Project Procedure

- PROJECT NAME
- PROJECT NUMBER
- TARGET DATE FOR COMPLETION
- ORIGINAL SITE VISIT
- COST ESTIMATE PREPARED
- LAND ENCUMBRANCES CHECKED
- MASTER SITE PLAN PREPARED
- DETERMINATION OF SIGNIFICANCE OF SITE CHANGE AS PER HB495
- ENVIRONMENTAL STATEMENT PREPARED
- ENVIRONMENTAL STATEMENT DISTRIBUTED
- HB495 PUBLIC COMMENT SOLICITED BY REGION
- HB495 REPORT PREPARED AND DISTRIBUTED BY REGION
- REGIONAL APPROVAL OF PLAN
- DIVISION ADMINISTRATOR APPROVAL OF PLAN
- SITE SURVEY COMPLETED
- SITE SURVEY PLOTTED
- STREAM PRESERVATION PERMIT APPLICATION
- STREAM PRESERVATION PERMIT RECEIVED
- DAM HAZARD DETERMINATION
- DAM CONSTRUCTION PERMIT
- DAM OPERATING PERMIT
- CORPS OF ENGINEERS PERMIT APPLICATION
- CORPS OF ENGINEERS PERMIT RECEIVED
- LAKE SHORE PROTECTION PERMIT APPLICATION
- LAKE SHORE PROTECTION PERMIT RECEIVED
- FLOOD PLAIN PERMIT APPLICATION
- FLOOD PLAIN PERMIT APPLICATION RECEIVED
- HEALTH DEPARTMENT TURBIDITY PERMIT APPLICATION
- HEALTH DEPARTMENT TURBIDITY PERMIT RECEIVED
- STORM RUNOFF PERMIT APPLICATION
- STORM RUNOFF PERMIT RECEIVED
- PRIME LAND INFORMATION RECEIVED
- WETLANDS PERMIT
- OPEN MINE PERMIT
- HEALTH AND SANITATION REVIEWS OR PERMITS
- SIGN REQUISITIONS PREPARED
- ROAD APPROACH PERMIT
- SIGN ERECTION PERMIT
- SUBDIVISION REVIEW
- ZONING REVIEW OR CHANGE
- COUNTY WEED BOARD PERMIT
- ARCHAEOLOGICAL INVESTIGATION
- HISTORIC PRESERVATION OFFICE CLEARANCE
- CONSULTANT APPOINTED
- HYDROGEOLOGIST
- FEDERAL PROJECT APPLICATION
- FEDERAL PROJECT APPROVED
- INTERNAL REVIEW OF PLANS AND SPECIFICATIONS
- A/E REVIEW OF PLANS AND SPECIFICATIONS
- A/E APPROVAL OF PLANS AND SPECIFICATIONS
- ADVERTISE FOR BIDS
- PRE BID CONFERENCE
- BID OPENING
- SEND BID TAB & PAMS REPORT FORM TO PROPERTY SECTION
- NOTICE TO PROCEED
- SUCCESSFUL CONTRACTOR
- PRE CONSTRUCTION CONFERENCE
- CONSTRUCTION STAKING COMPLETED
- MATERIALS APPROVAL
- SUBSTANTIAL COMPLETION
- FINAL PAY
- PAMS FORM TO PROPERTY
- PROJECT FINAL
- AS BUILT PLANS
- 1 YEAR WARRANTY INSPECTION

EXHIBIT

10

DATE

January 17, 1995

HB

122



Montana Fish,
Wildlife & Parks

Montana Audubon Legislative Fund

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

Testimony on HB 122
House Fish & Game Committee
January 17, 1995

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I am here representing the 2,400 members of the Montana Audubon Legislative Fund.

We oppose HB 122 in its current form.

Although we understand the concern of the sponsor, we do not feel that a "vote" on a proposed improvement or development of a state park or fishing access site is an appropriate way to make a decision.

First of all, a vote is not manageable. In this day and age of form letters, computers and fax machines, a vote could quickly become a ballot stuffing exercise. People can easily generate numerous letters and have everyone, including their dog, sign a letter to the department. How would the department fairly administer such a vote? When would the vote be taken? At scoping hearings or when the process is complete? What if someone votes one way during the scoping process and votes another way during the environmental assessment process and yet another way on the final environmental assessment?

Secondly, the process to "improve or develop" a state park or fishing access site is just that: a process. Done right, the process should carefully consider the comments of everyone affected; take into consideration the costs of various proposals; factor in public health, safety and welfare issues; and produce a plan that balances all of these issues. It's a difficult process - and a process that when done right should work.

As I mentioned above, we understand the sponsor's motive for this bill. Citizens get very frustrated when they are not listened to. I myself have concerns that the department can be over zealous in its development projects for its lands. But we do not feel that this bill, in its current form, is the answer to the problem. For that reason, we have worked with the Montana Wildlife Federation to draft the attached amendments to the bill. These amendments try to ensure that citizens are listened to - and that the department must justify its actions in writing. This seems like a good solution to the problem identified by the sponsor.

We appreciate your careful consideration of our proposed amendments. Thank you for the opportunity to comment on this issue.

EXHIBIT 12
DATE January 17, 1995
HB 122

House Fish and Game Committee
January 17, 1995

Amendments to HB 122

Submitted by:

Montana Audubon Legislative Fund and Montana Wildlife Federation

Page 2, Line 4

Following: "record"

Insert: "and weigh carefully"

Page 2, Line 6

Following: "otherwise."

Strike: the remainder of the paragraph

Insert: "The department shall issue a written finding of fact that describes the public comment and specifies the reasons for its decisions."

EXHIBIT 13
DATE January 17, 1995
HB 122

HJ 8
1/17/95

Mr. Chairman, Members of the Committee:

For the record, my name is Jennifer Hill, testifying for the MSGA and MWGA in support of HJ 8.

This resolution calls attention to the fact that many of the people who support wolves in Yellowstone National Park don't live here in Montana to deal with the problems the wolves will cause when they leave the park boundaries. Wolves roamed all of the United States at one time or another and now it seems that Montana and other western states are being singled out for wolf recovery.

Recent coverage of the wolves being brought to Yellowstone Park included comments from several people who said they favored wolf reintroduction. We wonder if supporters of reintroduction have thought about what those wolves will eat. We wonder if they realize that wolves in other states such as Alaska have greatly reduced moose numbers and threatened resident caribou populations.

We feel that these people have a different image of wolves. Wolves are not friendly, cuddly, furry little animals. Wolves are large and dangerous predators and livestock ranchers have great concerns about the impacts of wolf reintroduction.

This resolution makes an important statement and we urge you to give it consideration.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE January 17, 1995

BILL NO. 122

SPONSOR(S) RANEY, REHBEIN, SIMON, HARPER, WAGNER, STANG, ZOOK, RYAN, COBB SEN. DEVLIN, GAGE

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Ben Mot	DAILEY LAKE USER	✓	
JUDY E. OLSON	" " "	✓	
Dick Egger	" " "	✓	
GENE LEMBEKE	WALLEYES UNLIMITED	✓	
DAVID WISTEY	WINDSURFERS & DAILEY LAKE USER	✓	
JOHN DARHAM	DAILEY LAKE USER IN MANY DIFFERENT WAYS	✓	
WAYNE FRANSON	DAILEY LK. USER - fishing & camping	✓	
Jim Richard	MWF		✓
Angie Jonacois			
Beth Wheatley	MWF		✓
Clara Olson	FWP		✓
Bruce Reinhart	FWP		
Janet Ellis	MT Audubon		Amend ✓

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

HR:1993

wp:visbcom.man

CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME COMMITTEE DATE _____
 BILL NO. 122 SPONSOR(S) Raney

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PLEASE PRINT

PLEASE PRINT

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

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HR:1993

wp:vissbcom.man

CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

FISH & GAME

COMMITTEE

DATE

January 17, 1995

BILL NO. HR 8

SPONSOR(S) HANSON, BECK, JENKINS, BRAINARD, FOSTER,
HOLLAND, MENAHAN, ZOOK, KNOX, COB B, PAROVICH

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jennifer Hill	MT Stockgrowers MT Wood.	✓	
Lorna Frank	Farm Bureau	✓	
Paul Johnson	mtlct fitters & Guide Assn	✓	
Steve Frasier	self		X

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