

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON FISH, WILDLIFE AND PARKS**

Call to Order: By **CHAIRMAN DANIEL FUCHS**, on March 20, 2001 at 3 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Daniel Fuchs, Chairman (R)
Rep. Joe Balyeat, Vice Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Keith Bales (R)
Rep. Debby Barrett (R)
Rep. Paul Clark (D)
Rep. Ronald Devlin (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Larry Jent (D)
Rep. Jeff Laszloffy (R)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Allen Rome (R)
Rep. Jim Shockley (R)
Rep. Donald Steinbeisser (R)
Rep. Bill Thomas (R)
Rep. Brett Tramelli (D)

Members Excused: None.

Members Absent: Rep. Nancy Fritz (D)

Staff Present: Linda Keim, Committee Secretary
Doug Sternberg, Legislative Branch

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 634, 3/16/2001; SB 304,
3/19/2001; SB 492, 3/16/2001
Executive Action: SB 262

The Hearing was delayed for a short while waiting for the Senate to adjourn.

EXECUTIVE ACTION ON SB 431

REP. GALLUS said he has an amendment for SB 431 and would like to motion to remove it from the table to add the amendment. SB 431 would clarify laws on commercial collection of wildlife. The amendment adds some language that this section does not prohibit. This section does not apply to or prohibit outfitting for shooting non-game wildlife, payment by landowner to an individual for shooting or removing non-game wildlife, and does not prohibit incidental use of byproducts of non-game wildlife in fishing flies, jewelry, or other handicrafts. If the amendment gets put on, all it would prohibit then would be exportation of small animals like rock rabbits.

CHAIRMAN FUCHS asked if there is someone who voted against the bill that wants to speak to the amendment and possibly speak in favor of bringing this off the table.

REP. LASZLOFFY said he spoke with **Janet Ellis of Montana Audubon** and indicated to her that he would vote to bring SB 431 off the table. This combined with helping her out with an amendment in Natural Resources last week should give 50-80% with Audubon.

REP. GALLUS moved that **SB 431 be brought off the table** to add an amendment. **Motion passed 10-9 with Balyeat, Barrett, Bales, Steinbeisser, Ripley, Rice, Rome, Thomas, and Devlin voting no.**

CHAIRMAN FUCHS noted that the bill is now off the table and can be dealt with later in Executive Action.

HEARING ON HB 634

Sponsor: REPRESENTATIVE MONICA LINDEEN, HD 7, HUNTLEY

Proponents: None

Opponents: None

Informational Witnesses: Rich Clough, Fish, Wildlife & Parks

Opening Statement by Sponsor:

REPRESENTATIVE MONICA LINDEEN, HD 7, HUNTLEY said HB 634 is asking for money to install a fish ladder at the Cartersville diversion dam on the Yellowstone River. The money would also

cover design and feasibility studies. This is a special interest bill for constituents in her district, and has been discussed for about six years. She has spoken with Bureau of Reclamation and Fish, Wildlife and Parks also. Brief summaries of meetings that occurred in eastern Montana are found in her handouts. The 2/17/00 meeting, **EXHIBIT (fih63a01)**, discussed information that was collected above and below the Cartersville Dam. Data indicated that several species are present at much lower densities above the dam, as compared to below. The dam is a major fish passage barrier for migratory fish and serves about 40 flat irrigators who farm 10,000 acres in the area. The Bureau of Reclamation discussed several options for restoring fish passage including 1) construction of a baffled concrete fish way, 2) installation of a series of grade controls in a side channel located just upstream of the dam, and on the south side of the river, 3) complete removal of the dam and installation of a pumping station. Options 1) and 2) would require construction of fish screen on the diversion to prevent fish from entering the canal. Potential funding sources were also discussed. At the 5/25/00 meeting, **EXHIBIT (fih63a02)**, there was more discussion about kinds of repair that need to be done and work that has gone into it. Specifically there were quite a few irrigators present at the meeting, talking about the pros and cons, and whether they would like to remove the dam and replace it with a pumping station. There was some concern that it might be controversial, more expensive, and may increase prices for the irrigators in terms of power, etc. She also spoke with **CHAIRMAN FUCHS** about alternative funding sources for the fish passage dam. One of those included looking at Future Fisheries money as a possible source.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Witnesses:

Rich Clough, Fish, Wildlife and Parks (FWP) said fish passage is very important. He presented written testimony which he followed in his remarks, **EXHIBIT (fih63a03)**.

Questions from Committee Members and Responses:

REP. BARRETT asked if this project is on federal land, state land, or private property. **Rich Clough** said it is on private land, and in the river itself.

REP. STEINBEISSER asked if the dam is a Bureau of Reclamation project. **Rich Clough** said it is a private irrigation company owned dam. **REP. STEINBEISSER** asked if there are any federal

funds available for this project? **Rich Clough** said they have looked at some, one problem is the benefit from Bureau of Reclamation for their projects. They are hesitant to put it into that particular one because it is not on their property. Deferred to **Larry Peterman, FWP** who said there have been several people involved in trying to solve this problem. They have looked at different funding sources, which include some federal funds, some private funds, and whatever is available. It is a private facility. The Bureau of Reclamation is involved because they are concerned about fish passage up and down the river, and since they do have several of their facilities located there.

REP. RIPLEY asked if the \$500,000 is the total amount to fund this whole project, or just a portion that would be supplemented with other government money. **Larry Peterman** said the estimate provided by a Bureau of Reclamation engineer is a very rough estimate which included a fish passage structure, feasibility study, and screening on the diversion itself. The \$500,000 does not include any repairs to the existing diversion itself.

REP. FACEY asked if we could fund a feasibility study only as a first step, and how much the feasibility study would be. **Larry Peterman** said it would be about \$50,000, and is incorporated into that estimate. **REP. FACEY** asked if it would be possible to find that in FWP budget, rather than the general fund? **Larry Peterman** said they don't have \$50,000 to do a feasibility study on this particular project. FWP has been working with the irrigation company and American Rivers has shown significant interest in working together to find some funding. We did fund some studies to try to find the extent of the fish passage barrier problem.

REP. SHOCKLEY asked how they know what the cost will be if they haven't done a feasibility study? **Larry Peterman** said that was only a rough estimate provided by a Bureau of Reclamation engineer. He would probably testify it could be more or less.

CHAIRMAN FUCHS asked if information was available from Future Fisheries as to how much money they had left after their January meeting. **REP. LINDEEN** said she was given that information and forgot to bring it with her. There was enough money to do the project. **CHAIRMAN FUCHS** asked for clarification this was privately owned. **REP. LINDEEN** said yes it was. **CHAIRMAN FUCHS** said you could go to Future Fisheries with the owner if he is willing to put up some type of contribution, his own work or whatever. As long as he is willing to contribute, he can ask Future Fisheries to help him with that feasibility study. **REP. LINDEEN** said that is an option. It is not just one person that owns it; it is the irrigators. She brought the bill hoping she might at least get the study funded. She said she did not

realize that Future Fisheries might be a source of funds. They will definitely be looking at that possibility.

REP. GUTSCHE asked about the third possibility outlined above; that of removal of the dam and installation of a pumping station. Is that covered under the language of this bill, which mentions installing a fish passage device? **REP. LINDEEN** said it would be within the first or second option, not under the third option.

REP. GUTSCHE said if they chose the third option, would the landowners and the irrigators who run it be covered by this?

REP. LINDEEN said no, under Sub Section D, right before New Section 2, it says the department may install fish passage device only with the permission of the owner of the Cartersville Diversion. Obviously they would have to agree with one of the first two options. In the 5/25/00 summary, there are serious concerns about whether or not they would like to completely remove the dam and put in a new pumping station. This is just trying to put more focus on the situation, stimulate more interest, and come to a conclusion to see how we can best handle it. **REP. GUTSCHE** asked if the owners would give permission if one of the options were chosen? **REP. LINDEEN** said she could not speak for them, but it is her contention that they would.

REP. STEINBEISSER asked if Senators Burns and Baucus and Rep. Rehberg had been contacted about federal funding. **REP. LINDEEN** said they had not. **REP. STEINBEISSER** said that needs to be done. They had the same problem, but theirs was a Bureau of Reclamation Dam. Funding may also be available for private projects. **REP. LINDEEN** said she would like to discuss this after the hearing.

REP. BARRETT asked about the Legislative Contract Authority (LCA) request in the FWP 2002 and 2003 operations and capital budget. She said that LCA request standing authority is equivalent to all the federal contractual obligations incurred by the fisheries division. The LCA budget is spending authority from projects sponsored by such federal agencies as the forest service, the U.S. Fish Wildlife Service, Bonneville Power Administration, U.S. Army Corp. of Engineers and the Bureau of Reclamation. FWP conducts fisheries investigations on aquatic restoration projects which provide mutual benefits to Montana as well as to federal agencies. There is \$3,738,000 from the federal government. It is projected in your budget \$1,851,000 in 2002 \$1,851,000 in 2003. Could any of this money be used for this project? **Larry Peterman, FWP** said that is Legislative Contract Authority. It is authority only; it does not come with dollars. If we get outside funding from those sources, that allows us to have the authority to spend it. If there were federal funds available for this project, we would use LCA authority to carry out the project.

REP. CLARK refers to Future Fisheries' money discussed earlier. From your perspective, is this the kind of project that would qualify for future fisheries funding? **Larry Peterman** said a project like this which provides fish passage is a project which would qualify, providing there are wild fish that are benefitting. Future Fisheries applications go through a citizen review panel that makes recommendations. **REP. CLARK** asked what would happen if there is more than one owner, i.e. a cooperative ownership; what would be required in order to go ahead with the project? **Larry Peterman** said it would require an agreement on the part of the project owners. We would have to come to terms with what the project would be, future maintenance requirements of the project, how long it would be functional, etc. Future Fisheries money is for the project itself. The feasibility study and designing portion is done with other funds, and they come to Future Fisheries with a designed project for funding. **REP. CLARK** asked if there is a public process in the prioritization of this project, or does FWP determine this? **Larry Peterman** said the application process involves submission to the department, departmental review, and a citizen review panel to determine which projects to fund and at what level they would be funded. They consider the value of the project, the public benefits, and if they are cost/share with the projects. It then goes back to the department, and to the commission for final approval. The commission has a public process they go through, and they make the final determination.

Closing by Sponsor:

REP. LINDEEN said she appreciates everyone's help in getting some questions answered today. This fish ladder is a project that has been a long time coming.

Close Hearing on SB 634.

EXECUTIVE ACTION ON SB 262

CHAIRMAN FUCHS said SB 262 would eliminate social security numbers on hunting and fishing applications.

Motion/Vote: **REP. GOLIE** moved that **SB 262 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 431

Motion: **REP. GALLUS** moved that **SB 431 BE CONCURRED IN.**

Motion: REP. GALLUS moved that **AMENDMENT 43101 TO SB 431 BE ADOPTED.**

Discussion:

REP. GALLUS said Amendment 43101, **EXHIBIT(fih63a04)**, adds some language about the intent of the bill. It says the department has the authority, but can't get in the way of outfitting, a landowner charging someone to eradicate non-game wildlife from their property, and doesn't get in the way of people who tie flies or any handicrafts or jewelry. Wants to see this bill prevent people trapping certain species and then exporting them for commercial purposes.

REP. LASZLOFFY asked why Amendment 5, sub c uses the word "incidental" instead of saying byproducts. REP. GALLUS said that he could not say why, because the department added that word. **Legislative Staffer Doug Sternberg** said the use of the word "incidental" would indicate that the use of these byproducts is not the primary reason why these products are taken. If someone is out collecting or harvesting non-game wildlife specifically to do this, then they would still be required to get permission from the department. If they use certain parts of it incidentally in jewelry or flies; this would be one of the exclusions that apply. You can buy small quantities of fur at a tanner or taxidermist for use in your flies; that is the kind of incidental use they are referring to here. Occasional use would be excluded.

REP. LASZLOFFY made a substitute motion to strike the word "incidental" in Amendment #5 of 43101.

REP. GALLUS said he would compromise on that.

REP. SHOCKLEY said the primary emphasis behind this was to keep people from capturing non-game species and shipping them somewhere for pets. He is concerned that this got out of hand. If someone can demonstrate there is an abuse of non-game species to the extent they are being impacted commercially, would support the word "incidental". Until you can do that, would limit the bill as much as possible.

REP. RICE said she is bringing up the same issue as before. They have not seen a whole list of species, only examples, that will be affected by this. That is critical before anyone can vote. **Rich Clough** said he is not prepared to answer that. They do not have an entire list of potential species.

CHAIRMAN FUCHS noted the amendment is on striking the word "incidental" and it was time to vote on that.

Substitute Motion/Vote: REP. GALLUS made a substitute motion that **STRIKE THE WORD "INCIDENTAL" FROM AMENDMENT 43101 BE ADOPTED.** Substitute motion carried 15-2 with Clark and Gutsche voting no.

Motion/Vote: REP. GALLUS moved that **AMENDMENT 43101 TO SB 431 BE ADOPTED AS AMENDED.** Motion carried unanimously.

REP. GALLUS said he would like to vote on the amendment and postpone further discussion until there was more time available.

CHAIRMAN FUCHS announced that executive action on SB 431 was postponed.

HEARING ON SB 492

Sponsor: SENATOR MIKE SPRAGUE, SD 6, BILLINGS

Proponents: Doug Monger, Fish, Wildlife and Parks Commission
Bob Gilbert, Walleyes Unlimited of Montana
Kathy Frazier, Yacht Basin Marina

Opponents: None

Opening Statement by Sponsor:

SENATOR MIKE SPRAGUE, SD 6, BILLINGS HEIGHTS said SB 492 raises the boat decal fee from \$2.50 to \$5.00. The testimony they heard in the Senate FWP committee and support from various sport organizations, Walleyes Unlimited, etc. made them realize there was no reason not to bring it up to parity with things like snowmobiles. The extra \$2.50 can be used in matching funds with the coast guard. They have a program that will help with conflict resolution and be able to hire part time summer employees to add a presence in the more populated lakes and rivers. With the Lewis and Clark celebration coming up, and more people coming, this could only get worse. This was a good time to do it.

{Tape : 1; Side : B}

Proponents' Testimony:

Doug Monger, Fish, Wildlife and Parks presented written testimony which he followed in his remarks to the committee, **EXHIBIT (fih63a05).**

Bob Gilbert, Walleyes Unlimited of Montana said it is their understanding that of the \$2.50 increase, \$.50 will go to parks and \$2.00 will go to enforcement. There are enough laws on the

books for regulation, but we need one more law in order to fund enforcement. We don't like fee increases either, but this one is justified; we need more enforcement of existing laws.

Kathy Frazier, Yacht Basin Marina on Canyon Ferry Lake, said they are also very active with the coast guard auxiliary. She said that the laws are there on paper, they were written to protect people, property, and the environment and to help save lives. FWP has tried, they just don't have enough people. Without enforcement, there are no laws. Since Canyon Ferry is so big, it is not so much a matter of over-crowding, it is a matter of not obeying the laws.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. DEVLIN asked if the current \$2.50 boat decal money all goes to the state. **Doug Monger** said yes, 80% of the \$2.50 goes for law enforcement, and 20% goes for boating facilities in the state parks division. Without the decal on the boat, the counties have no way to collect the tax revenue they receive. This is FWP's incentive to help the county with their tax collection. **REP. DEVLIN** asked about the registration fee, paid in lieu of taxes. Does part of that stay with the county? **Doug Monger** said that is correct. 80% of the fee paid in lieu of taxes on boats goes to the county, 20% goes to FWP for facilities.

REP. BARRETT said \$52,000 is earmarked each year in the 02 and 03 budget for recreation conflict. Why can't you use that money for matching funds? **Doug Monger** said the item being referenced was a one-time fisheries person to deal with the recreational conflicts associated with the Big Hole and Beaverhead type of conflict; i.e., the bank fisherman, float fisherman, commercial user, non-commercial user. This legislation would be for 12 water-safety officers spread throughout the state. These would be seasonal 2½ to 3 month employees doing boat checks, etc.

REP. RICE asked for assurance that this bill would not contribute to closing down another body of water. **Doug Monger** said the intent behind this bill and behind putting those officers out in the field is to eliminate conflicts. If this bill is passed, he can't guarantee nothing will ever happen in the future. Through an ethics education program, we stand a better chance of keeping user groups away from each other.

Closing by Sponsor:

funding. Section 3 contains rules for administration of the program. Photos of food plots were presented, **EXHIBIT(fih63a06)**.

Proponents' Testimony:

Ed Smith, Former Senator from Dagmar, representing himself explained that the bill provides a more fiscally accountable program for habitat enhancement and upland bird release programs. The bill is the result of problems which existed in the past. He presented written testimony which he followed in his remarks to the committee, **EXHIBIT(fih63a07)**. He also presented a project contract, supporting documents and correspondence, **EXHIBIT(fih63a08)**, a Performance Audit Summary, **EXHIBIT(fih63a09)**, a pamphlet entitled "Forty Pheasant Facts", **EXHIBIT(fih63a10)**, and four photos, **EXHIBIT(fih63a11)**.

{Tape : 2; Side : A}

Mike Jensen, Plentywood, representing Sheridan County Chamber of Commerce and Agriculture presented written testimony which he followed in his remarks to the committee, **EXHIBIT(fih63a12)**.

Paul Overgaard, Plentywood, representing Sheridan County Chamber of Commerce and Agriculture said he owns the Sherwood Inn, and without bird planting in the past he would not have received enough money to pay the mortgage. He is concerned about limiting out of state hunters and raising their license cost. Asks for support for SB 304.

Rich Clough, Fish, Wildlife and Parks Committee said he is not here to defend all the things that were brought up. He and the director met with **Ed Smith** and went through many of the concerns. FWP supports this legislation. The audit was well done and they concur in the findings of that audit and have been working to rectify those items that need changing. The program benefits upland game birds, local economies, landowners, and resident and non-resident hunters. He presented written testimony for the record, **EXHIBIT(fih63a13)**.

Toby Day, Montana Wildlife Federation said they support SB 304 with the amendments. Habitat enhancement projects are important for keeping viable populations of game birds. Section 3 gives the project accountability monitoring. The one part they do not support is on page 1, line 25 "for releasing upland game birds and suitable habitat". Suitable habitat means proper food, cover and water. Page 2, lines 3-7 reads, "the upland game bird release program must contain the proper combination of winter cover, food, nesting cover and other upland game bird habitat components. However, on page 2, line 27-28 it says "the funds

collected under this section may be expended for supplemental feeding programs that are authorized by the department". MWF would like an amendment, **EXHIBIT (fih63a14)**, striking lines 27-28 on page 2 because FWP has taken a stand on feeding wildlife. They do not advocate supplemental feeding of wildlife. It causes problems with disease. This would start a precedence in FWP that we really don't need.

Craig Roberts, representing himself, sent written testimony for the committee but was unable to be present for the meeting, **EXHIBIT (fih63a15)**.

Opponents' Testimony: Information provided by Mike Barrett was not relevant and was not included.

Informational Witnesses: None

Questions from Committee Members and Responses:

REP. FACEY asked how many full time wildlife biologists there are for upland game birds in FWP. **Rich Clough, FWP** answered there is one full time wildlife biologist coordinator in Helena. The duties are distributed through out the state; but there is only one who is full-time. **REP. FACEY** said because upland game bird hunting is economically important, he would like to expand the number of personnel in Helena to help with the program.

REP. SHOCKLEY said he missed the first part of the hearing as he was at another meeting. He asked for a summary of what transpired on the Russell Ranch. **Rich Clough** said a rest-rotation grazing system was implemented in an effort to improve habitat. The first project was \$100,553, and after this same party bought another ranch and implemented another grazing system, an additional \$250,000 was expended. It included fencing, water development, etc. This was on 40 sections or about 25,600 acres. There are no similar projects. **REP. SHOCKLEY** asked about the length of time. **Rich Clough** deferred to **John McCarthy, FWP**, the upland game bird coordinator. **John McCarthy** said it took five years to implement this project. They got a 20 year contract with the ranch that stipulated adherence to the grazing system as laid out in the contract, and allows public hunting on the area.

REP. SHOCKLEY asked how many birds and of what variety they anticipate producing per year? **John McCarthy** said the intention of spending these dollars is to protect native grasslands; they have no way of measuring how many birds would be produced. It is weather dependent, and dependent on the success of these habitats. **REP. SHOCKLEY** asked if the \$350,000 was spent not even knowing how many birds we would get out of it. **John McCarthy**

said none of the projects allow them to determine how many birds will be produced in a year. They have 50 years of evidence that show these practices result in better habitat conditions, longer and more viable populations. **REP. SHOCKLEY** asked if a cost analysis is possible. **John McCarthy** said no.

REP. STEINBEISSER asked if the money was all paid up front. **John McCarthy** said some of the money was paid up front. The standard process is to wait for receipts to come in and see that the work is done.

REP. RICE asked **John McCarthy** how long he has been coordinator. **John McCarthy** said he had been coordinator since 1999. **REP. RICE** asked if he was familiar with the Russell Ranch. She said it is a big dust bowl and wondered why it was chosen. **John McCarthy** said the area was chosen because of the potential it has habitat that support native species of upland birds. These species evolved in that type of habitat and have done very well. The idea behind this was to protect native habitat to improve conditions for native species. **REP. RICE** asked how many birds they are producing. **John McCarthy** said they can only do trends. The indication is that sharp-tailed and sage grouse are both increasing over the last 4-5 years. **REP. RICE** asked if they have numbers they go by. **John McCarthy** said that information is kept in the regions and used there.

REP. RIPLEY asked about the agreement between the Russell Ranch and FWP, and asked for clarification regarding the length of the agreement, which says 15 years. **Ed Smith** said the first contract allows the Russells to take their land back five years from now. FWP will have spent \$252,000 in ten years. **REP. RIPLEY** asked where the dollar amount is listed. **Ed Smith** said it is in a separate file listing all the expenditures and invoices. He got a copy of it from the auditor.

REP. DEVLIN said that the bill indicates 15% of the funds must be set aside, and 25% of that must be spent. What happens to the other 75% if it doesn't get spent? **SENATOR NELSON** said they are asking that the money be set aside with the idea that they will look at it again in two years. She wants to know that they are complying with the program and that this money is available. Doesn't want it to go to habitat enhancement immediately. Wants it to be available if people want to get in this program. **REP. DEVLIN** asked if the 15% will accrue in an account specifically for bird releases, and if it doesn't get all spent in one year, it would be available for the next year. **SENATOR NELSON** said that is correct.

REP. DEVLIN asked if any birds were released last year. **Rich Clough** deferred to **John McCarthy, FWP** who said that 11,000 birds were released. **REP. DEVLIN** asked if anything other than pheasants were available for planting. **John McCarthy** said, under the current bill they are limited to planting pheasants. It is a pheasant release program, and 11,000 pheasants were released.

REP. CLARK said they are getting mixed reviews on the feeding programs, where else in the FWP program do they subscribe to the feeding programs, and for what other species would they be doing that? **John McCarthy** said the commission did pass a rule to allow for emergency feeding under conditions that were considered extreme. It would be used in very rare circumstances. The conditions occurring in northeastern Montana this year probably would have qualified from the standpoint that it iced over all the available habitat and made it unavailable to any species. Overall they do not support feeding. **REP. CLARK** asked if he was saying the criteria would be in place that it would have to be an emergency situation before you would engage in the feeding. **John McCarthy** said that is true.

REP. CLARK said there is concern about how projects are selected, what the criteria are, what the standards are, and how you hold yourself accountable. Would FWP like an opportunity to address that? **Rich Clough, FWP** said the audit pointed out some problems with this program. In conjunction with the bill, FWP now has the ability to have a good program. Changes that were pointed out in the audit have been implemented, or are in the process. We agree there has to be more accountability with a program of that size. The system put in place on the Russell would benefit a lot of species, not just upland game birds. In defense of that project, you could state that it benefitted everything else out there, including the landowner, on this one. **REP. CLARK** asked if there is new criteria in place that is in writing for selecting these projects. He is concerned that we can't measure any results, and we don't know what the cost per bird is. He asks if more information is available in terms of how you are now selecting projects and what you will be doing in the future? **Rich Clough** said he would furnish criteria that has been developed for selection of those projects, in addition to the monitoring side of it. As a recommendation in the audit, they are now trying to estimate increases and decreases in population. That is weather dependent as well.

REP. THOMAS asked clarification that Montana Wildlife Federation is opposed to supplemental feeding of wildlife. He asked at what point birds who are raised and fed in captivity become wildlife. **Toby Day** said they are not opposed to supplemental feeding in emergency situations. It becomes bad science when animals become

dependent on supplemental feeding. That is what may cause problems in this bill. It may not with the current department, but the department may change, and that may change their philosophy on supplemental feeding. In this bill, as far as the pen raised animals, that isn't the important part of the bill to MWF. The important part is section 3, which in the habitat program would hold the department and the people that get the habitat money accountable to where the money is going and how the program is benefitting. **REP. THOMAS** asked at what point in a bird's life that it goes from penned, raised domestically, to being wildlife? **Toby Day** said MWF's stand on pen-raised animals is that they are not wildlife. Transplanting wildlife is considered to be more beneficial, where you are taking a bird from one area and putting it in another area. Any pen-raised animal released into the wild would probably not be considered wildlife. **REP. THOMAS** asked if these birds, as they are raised domestically and then released, are considered wildlife when they are released, but not when they are in the pen? **Toby Day** said they would not consider them wildlife when they are in the pen or when they are released. They are domesticated animals. If they are pen-raised, they are put in a situation where they are domestically raised, and then they are let loose. It is a wildlife species by name, but the animal itself is domesticated. **REP. THOMAS** asked if these birds even when released are still considered domesticated. **Toby Day** stated that they have a domesticated nature.

REP. SHOCKLEY asked **John McCarthy** how many hunters use this 46 sections? **John McCarthy** said the ranch is also in the block management system and they have records on how many people hunt the area on an annual basis. Does not have the information with him, but will provide that information.

REP. BALYEAT asked for figures on how many hunter days and how many specific hunters. **John McCarthy** said he will provide that.

REP. BALES asked for clarification. You said it was 46 sections with deeded acreage is 7,000 or 10 sections, is the rest BLM and state land. Was that part of the pasture rotation system also. **John McCarthy** said it does include federal land and state land. Those are part of the system. **REP. BALES** said he would like to know how much federal and state land was in that project. **John McCarthy** said he would include that in his report.

Closing by Sponsor:

SENATOR NELSON said 10 copies of the actual audit report are available today if anyone would like to see it. She said there is plenty of money for both programs. Habitat enhancement seems

to be a popular program, but even with the small amount of money they are asking be set aside for planting birds, there would still be over \$1 million per year for habitat enhancement. The rule making can address other concerns that have been brought up, and she said she would be back to see that we have gotten things cleaned up. She said that some information was given to her on the Russell project, which she feels was mis-managed. The money was paid up front, allowing them extra money; and often no invoices were provided. Had the terms outlined in the information attached to the contract been followed, the audit department estimates the contractor would have received \$135,000 less than the \$353,000 that was paid to him. A copy of that information can be made available to the committee if anyone wants it. She closed by thanking the committee and the people who came to testify.

ADJOURNMENT

Adjournment: 6:00 P.M.

REP. DANIEL FUCHS, Chairman

LINDA KEIM, Secretary

DF/LK

EXHIBIT (fih63aad)