

Exhibit Number: 3

Opponent's Testimony to SB 503
DR. JOHN B MURNAME, DVM

The following exhibit has an assortment of written testimonies, a color picture, a colored map and indexed materials. This exhibit exceeds the maximum amount that can be scanned therefore only a small portion has been scanned for your research. This exhibit is on file at the Montana Historical Society and can be viewed there.

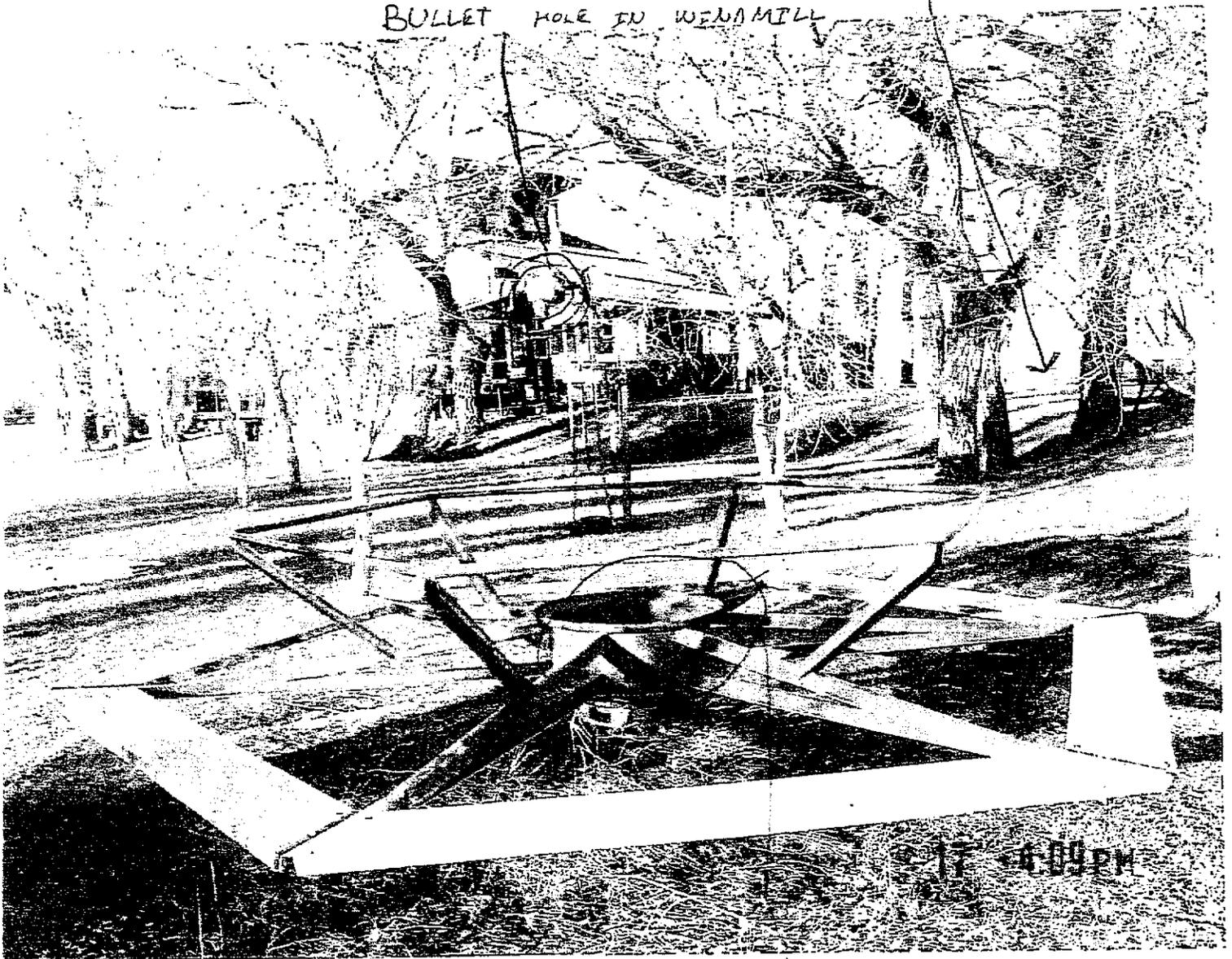
Index Material Contain

- 1. Ballistics**
- 2. Expert Opinion**
- 3. Incidents on the Teton Spring Creek Preserve**
- 4. Petition/Comment, Concern, Objection from Public Officials, letters**
- 5. Bow Hunter Commitment/Capability**

EXHIBIT 3
DATE 3.15.05
SR 503

US HIGHWAY 89

BULLET HOLE IN WINDMILL



JERRY + PEGGY KIMMET HOME
AND CHILD'S MERRY GO ROUND
BULLET HOLE IN WINDMILL.

One of 4 documented incidents of errant bullets in a 4 1/2 mile
corridor

Jeff Haganer
Director
Mt Department of fish Wildlife and Parks
Helena, Mt

12/07/04

Dear Jeff,

Hello we hope all is well. I am writing concerning the Teton spring Creek Preserve (old and new) to reiterate our concerns regarding human safety. Attached you'll find a copy of a letter to John Lane which summarizes those concerns and references of documents that you have recieved in past correspondences. I am happy to re-provide you with those documents. You'll also find a copy of the letter to you indicating the great work by John and others which brought a step towards solution without endangering human lives. That was this year's liberalized archery season.

Importantly, you'll find a front page story from the *Choteau Acantha* recounting this year's tragic accident in which a family ranch horse was killed. Please note in the article the owners comments about the "animal was down in the thick willows". And the Mother's comments about " We walk down there every day. It could have been one of us"..

These are precisely our concerns and the concerns expressed in writing by:

**50% of the residents in the Teton Spring Creek corridor,
numerous wepons experts,
your own former hunting safety instructor,
former Teton County sheriff,
members of the Choteau City council,
the Teton county Commisioners,
Senator Jerry Black and
Senator Max Baucus's office.**

In fact there have been 4 documented cases which have been provided to you (with photos) of errant bullets stiking buidings, a child's merry go round or fired across the highway. The environmental assesment (EA) did not appropriately recognize, acknowledge these documented safety hazards, or mitigate for the threats to human saftey that your department would create by introducing a firearms season in this area.

The introduction of a firearms hunting season in this area, which has not had a firearms season in over 80 years, would fly in the face of the reality on the ground and would recklessly invite an irreversable tragedy.

There is no need for this to happen. This year according to a conversation with FWP biologist approximately 95-100 deer were killed in and around the Preserve. Newspaper reports from last year indicate that another 100 +/- deer were killed by archers including a substantial amount killed after the commision extended the season last January.

The original firearms proposal had two important premises.

1. There was no safety concerns with a firearms season.
2. Archers could not reduce substantial numbers of deer.

Both premises were false as have been clearly demonstrated by the widespread documented concern for human safety, and the repeated sucess of bowhunter's (Montana Sportsmen and women) killing substantial

40-46
B.W.H. 11/10

number of deer in 03 and 04.

We all would have liked to see this year's harvest higher. But as you well aware of the weather conditions that reduced harvest by rifle hunters and forced extended seasons in the Augusta area undoubtedly impacted the archery harvest as well. Notwithstanding those conditions; the repeated success of 200 deer killed in this area shows that archery is an effective tool to of reducing deer numbers. Most importantly, it is one that does not threaten human life.

We respectfully request that you extend the season, as you did last year, through Jan 30 to maximize the safe harvest as we work towards helping reduce landowner damage by whitetail deer and find safe solutions to do so. We are always happy to visit with you, your personnel or members of the commision to find win-win solutions to this issue.

Please feel free to contact us.

Sincerely,

John B. Murnane DVM
Susan Murnane RN
Luke, Maria and Sareena Murnane

Po Box 1428
Choteau, Mt 59422

cc John Lane
Senator Jerry Black
Senator Max Baucus
MT Bowhunters Association
Teton Spring Creek Residents

John Lane
Fish and Game Commissioner
PO Box 9 Cascade, MT 59421

12/8/03

Dear John,

We most respectfully request that you reject the state's proposal for a firearms hunting season in the Teton Spring Creek Preserve including those under the dangerously misleading restricted weapons title. Please select from the alternatives that do not include a firearms hunting season.

The State's proposal creates an increased risk of a human fatality, human injury, livestock fatality or injury, damage to property and risk to transportation safety including school busses that travel and stop through the preserve corridor. *It is the State's, not the landowners, responsibility not to create, or to prevent these risks.*

Shot gun slugs including the "old style" foster slug are comparable to, or exceed the performance of modern high powered rifle when it comes to how difficult they are to stop. This has been scientifically tested and published in the *attached* U. S. Forest service's document under the relative penetration in a uniform test medium. Newer shotgun slugs have a maximum distance in excess of 1 mile as noted on the *attached* article by Bill McRae and a direct statement from his personal interview with a manufacture of shotgun slugs

The Teton Spring Creek preserve is a narrow strip of land bisected by federal highway. It is heavily populated, has thick cover that shrouds homes, human activity, livestock and businesses. The whitetail security cover is immediately adjacent to these areas of human activity. It has the dangerous combination of narrow strip of thick cover, with little topographical backstop on the borders of land ownership.

Over 50% of the households have requested in writing that The Teton Spring Creek remain firearms free. (not a comment on withdrawal of lands from the Preserve). *See attached petition.*

Weapons experts that are intimately familiar with the Preserve have requested in writing that the Teton Spring Creek remain firearms free for reasons of human safety these include:

The Former hunter safety instructor (25 years) For the MT department of Fish wildlife and Parks and Spring Creek - Bob McDonald.

The Former Teton County Sheriff and current Magistrate for Teton County- Pete Howard.

Outdoor Writer and consultant to the shooting industry. Bill McRae.
See attached letters.

Community Members have expressed their objection to firearms usage in the Teton Spring Creek Preserve, or, have recognized the concern for human safety that firearms, including the restricted weapons present. *See attached letters.*

These include:

The Principle of the Local School,
The Teton County Commissioners
Member(s) of the Choteau City Council
State Senator Jerry Black (Responsible for Teton County)- see petition and letter.

The state has alternatives that minimizes risk of a human fatality, injury, or damage to livestock including:

Multiple unlimited over the counter archery tags.

Extended seasons

Working with the Montana Bowhunters Association see attached kill report (17 deer by 4 hunters by Oct 27).

Introduction of crossbows.

Fish Wildlife and Park's employed marksmen, if necessary, similar to what they have done with bison in Yellowstone.

Kill permits issued to the landowners.

A combination of the above.

Three incidents (that we know of) have already occurred on the Teton Spring Creek Preserve. Including

A bullet hole in a windmill next to a child's merry-go-round on Jerry and Peggy Kimmet's property. It is within 30 yards of their house fired west to east (towards the Highway). *See attached photo.*

A bullet hole in Lloyd and Brenda Cunniff's building. Again within 30 yard of the their house, fired towards the highway. *See attached photo.*

An incident witnessed by the former Teton County Sheriff of an individual shooting at deer across the federal highway. *See attached report.*

Please do not ask us to accept more of the above. None of the members of the department who have proposed a restricted weapons hunting season, or members of the commission, live here.

The State was negligent in its preparation of its Environmental Assessment (EA). It ignored the ballistic data, the written and verbal comment of the weapons experts, the Teton Spring Creek residents and community member's objection to firearms including those under restricted weapons classification. This is reflected in their "no impact on human health" opinion in their EA. It is also reflected in their current proposal for restricted weapons in spite of all of the long term objections from a broad based segment of the community and people whose lives will be altered by this decision.

Please reject the state's proposal to allow firearms including those under the restricted weapons definition into the Spring Creek Preserve. Ask them to explore and implement their non-firearms alternatives *before* they create a lethal risk to the families, livestock and users of the Spring Creek corridor.

This request is not an objection to lands withdrawal proposal. *It is a request* to choose non-firearms alternatives in the solution to address excess deer populations.

Your decision can increase the risk of death to our families and increase the risk of damage to our property. Or, it can direct the State to respond to the public and fully implement their safer alternatives.

Please act as the citizen's oversight advocates that the commission was designed for and stop a tragedy before it occurs.

Sincerely,

John B Murnane DVM, Susan Buckley Murnane

Dr John B. Murnane DVM

Susan E. Buckley Murnane RN

Luke, Maria, Sareena Murnane

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CC Fish and Game Commissioners
Director Jeff Hagener
Governor Judy Martz
Supervisor Mike Aderhold
Senator Jerry Black
Representative Larry Lehman
Senator Max Baucus

**Montana Bowhunters Association***Charlie Johnson - President*

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Stevensville, MT 59870

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ckjohn@bigsky.net

March 13, 2005

Jb

Dear Representative Everett:

SB 503 was not originated by request from any of the residents of Teton Spring Creek Bird Preserve. In fact, very few of the Preserve residents were even aware of its existence when it was blitzed through the Senate just prior to the transmittal deadline.

This bill is not about removing the statute that created the Preserve because it is no longer needed to raise upland game birds. Rather, it was requested by FWP for the sole purpose of eliminating the prohibition against the use of firearms in the Preserve, which would then allow their use as a means to correct what some feel is an over population of deer in the area.

In 1979, the Commission decided not to consider a proposal from the Department to abandon the Preserve after a public meeting in Augusta. Again, in 1986, the Department proposed a rule to the Commission to abandon the Preserve. After a public hearing in Choteau, the Department decided to withdraw its proposal based on adverse public testimony particularly from landowners within the Teton Spring Creek Bird Preserve.

Last year, Preserve residents had the option of joining three other households who petitioned the FWP Commission to withdraw from the Preserve. These households unequivocally rejected this option in favor of staying in the Preserve. In fact, 15 of the 27 Preserve households recently signed a petition against the use of firearms in the area.

The MBA is sensitive to the wildlife problems of the landowners adjoining the Preserve and the associated wildlife management problems of the Department. But, the problems created by deer are the direct result of 35 years of improper management. In fact, until last year there was no provision or incentive in the season structure to allow for significant harvest of game within the Preserve. We feel there is still room for improvement in the season structure to allow for increase harvest of deer and intend to address this issue with the Department and Commission latter this year.

SB 503 would deny the citizens of this small community something they value; the protection currently afforded to them by statute from the dangers firearms pose to them during the general big game season.

The MBA respectfully requests you vote **NO** on SB 503.

Sincerely,

Charlie Johnson, President
Montana Bowhunters Association

Dear Representative George Everett,

3/4/05

We are contacting you in regards to SB 503 . The bill to repeal the Teton Spring Creek Bird Preserve. We are opposed to this Bill for the following reasons.

The discussion to eliminate the preserve should take place At Choteau with an appropriate comment period for local residents, not in Helena in a deliberate maneuver by FWP to exclude dissenting voices.

This Bill was brought to the house on false pretenses and without proper notification to our representatives and our community. It was brought to the Senate committee members also, without full disclosure of the longstanding human safety concerns and current alternatives the FWP has mange excess deer numbers.

This bill is and attempt to allow firearms use in an area that has not had firearms in 80 years.

Since the creation of the preserve the area has developed into a mix of homes buildings businesses and a variety of livestock uses. A federal highway bisects it for about 4 ½ miles. There is dense cover that provides haven to the deer and shrouds the intermixed human activity, livestock, highway and business use.

Modern firearms fire projectiles that retain dangerous terminal velocities ranging from ½ to 3+ miles.* There is generally little topographical relief to provide for a backstop to a projectile. The activity of the deer moving from residences to adjacent properties set up dangerous *fields of fire* that invite a tragedy.

There has been longstanding widespread written objection to the use of firearms by the *majority* of the households on the Teton Spring Creek preserve.* .

These objections have been echoed by:

- ◆ The Former Teton County Sheriff and current magistrate. *
- ◆ The FWP's own Hunter Safety Instructor and Teton Spring Creek resident. *
- ◆ A consultant to the Shooting industry outdoor writer and long time Choteau resident.*
- ◆ Numerous individuals who have received formal weapons training and are area residents.*
- ◆ Members of the Choteau city council. *
- ◆ The high school Principle.*
- ◆ Senator Jerry Black, who has visited the site, talked to landowners, residents, former enforcement personnel and weapons experts.*
- ◆ Concern for Safety was recognized and expressed by the Teton County Commissioners.*

*These objections and concerns are validated by 4 documented incidents of errant bullets or bullet strikes. Including a bullet strike in a child's merry go round.**

The FWP has been repeatedly been made aware of these objections. In the Adjusted Rule Making (ARM12.9.211*) the adjusted the boundaries of the preserve they state "*The most common complaint was a concern for a human injury or fatality*" *

In response to historic game damage complaints, the landowners with the bulk of the game damage withdrew their lands from the preserve. The FWP ignored safety concerns expressed about shotgun slugs, muzzle loaders and pistols and created a Special Weapons Restricted Area (SWRA). This designation allows the firearms that have been specifically objected to-including shotgun slugs. It offered no buffer zone or mitigation for safety hazard to adjacent landowners that these weapons create. Nevertheless, it does specifically forbid the use of high-powered rifles.

IN January of 05, in direct violation of the law outlined in the ARM, the department approved an "any weapon" hunt, including high-powered rifles. We and a group of residents, protested in court that this was an illegal action by the state. It is currently under review. In any case, it was a violation of public trust as no comment on this issue has ever included or discussed the use of high-powered rifles in this area. It breaches the clearly stated record that firearms use in this area would not include high-powered rifles. *

In the face of specific objection to the use of firearms for safety reasons, the FWP escalated the risk instead of tempering it, and we contend broke the law in the process.

We recognized there are too many deer. However this drastic legislative maneuver to abolish the preserve is inappropriate and unnecessary.

The department currently has effective options that don't compromise human safety they are:

1. Use enforcement personnel to directly reduce deer #'s with meat to food banks or reservations. This was done in Fort Benton and widely heralded as a success. It could and should be used here.*
2. Partner with the Montana Bowhunter Association, which has committed to assist in this problem.*
3. Expand the archery /crossbow season. – Last year's season was shortened by one month.
4. Judicious use of special weapons in withdrawn lands. *The solution to this whole issue may be as simple as using buckshot, as is common practice in many rural urban interfaces, preferably with a buffer zone.*
5. The use of shotgun slugs in withdrawn lands with a ½ mile buffer zone to adjacent landowners.

All of these options are currently available to the department. They have not been fully explored or implemented. We don't need a bill that impact 27 households and an 80-year history, when the department is not even using the tools it currently has to enhance the deer kill.

This issue boils down to three important concepts:

I. Human safety first. Every medical provider, when they receive the authority to change lives through the practice of medicine, has an overriding directive called the Hippocratic Oath. The fundamental concept is **"ABOVE ALL DO NO HARM"**. You have the ability to change lives through the practice of Law. Under no circumstance should action by the FWP or this legislative body, compromise human safety or increase the risk of a fatality or injury in this community.

II. Mitigate the untoward consequences of your actions. The environmental community persistently requires agencies and business to mitigate the negative impacts of new activity. Whether that be a rancher grazing in a riparian area, a timber company building roads through streambeds or mining or drilling impacts on water quality, the community or wildlife health.

Now, the burden is on the FWP to mitigate the lethal safety hazards a new firearms season creates. It should act responsibly with all of its tools - not seek refuge from these responsibilities by repealing the law.

III. A government that is open honest and forthright with its dealing in Public policy.

The FWP ignored historic objections to firearms by the majority of residents, weapons experts, concerned citizens and elected officials in creating the SWRA. In spite of that, they violated their own agreement, escalated the risk of human injury or fatality and we contend broke the law when they authorized a high powered rifles where they were specifically forbidden.

They manipulated the legislative process through crafty timing and lack of full disclosure to appropriate parties and seeking legislative refuge for solving this problem in lieu of using the effective tools at their disposal.

In Summary:

- I. Everybody agrees there are too many deer and the landowners need relief.
- II. Human Safety concerns about firearm use are real legitimate, and should not be compromised.
- III. The department has effective options that don't compromise human safety. They should use them.
- IV. The FWP has not acted in good faith in this issue. In this bill, and in violating the ARM.

We most respectfully ask that you table this bill, and direct the FWP to the flexible and adaptive management that reduces excess deer numbers safely.

Sincerely,

Dr John B. Murnane DVM, Susan E Buckley Murnane RN * = Information/documentation in binder.

John B Murnane DVM

Susan Buckley Murnane

We the undersigned request that a corridor, as defined by the Teton/Spring Creek Bird Preserve, remain a firearms free zone for reasons of human safety:

Name	Address, Phone and Comments
Bill McKee	40 SHERMAN LAKE CHOTEAU, MT
Ced DeLeon	POB 1036 Choteau, MT
* 2/18/03 John B. Mumane DVM	50 BOX 1428 (Hobart) WY. TETON SPRING CREEK
* Michael Madol	RT 2, Box 225 Choteau MT Teton Sp. Cr. 1020
* E. Rae McDonald	PO 909 Choteau MT 59422
* Raymond McDonald	PO 909 Choteau MT 59422
* John "Yoko" Howard	Box 564 (CHOTEAU), MT. 59422
* William Madol	350 1st Avenue Choteau, MT
* William Madol	1501 Airport Rd Choteau, MT
* Roly G. Deuchon	P.O. Box 40 CHOTEAU-MT Teton Spring Creek Road
* Tom J. Aronson	P.O. Box 753 Choteau MT 59422
* Walter W. Aronson	RT 2 Box 232 Choteau, MT 59422
* Pamela Wedum	P.O. Box 1036 Choteau MT 59422
* Steven H. Hush	RT 2 Box 228 Choteau Mont 59422
* William George	1501 Airport Rd Choteau 59422
* Dolores Morris	RR2 Box 229 Choteau MT
* Peggy Kimmet	4450 Hwy 89N Choteau, MT
* Larry Kimmet	4450 Hwy 89N Choteau, MT
* Jack Lunsford	4454 Hwy 89 Choteau, MT
* Royce Curran	4510 Hwy 89N Choteau, MT
* Royce Curran	470 Hwy 89N Choteau, MT
* Charal Bohma	4350 Hwy 89N Choteau, MT
* Barbara A. Dorman	4350 Hwy 89N Choteau, MT
* Stanley Kimmet	4452 Hwy 89N Choteau, MT 59422
* Santer James Blakey Dist 40 305 Old Main Blvd Shelby, MT 594	
* Ruth Lee Shim	4037 Hwy 89 Choteau, MT. 59422 (424-5363)

* = TETON SPRING CREEK RESIDENT or PROPERTY OWNER