EXHIBIT 3
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SB 115

Senate Bill 115
April 10, 2007
Presented by M. Jeff Hagener
House Appropriations Committee

Mr. Chairman and committee members, for the record I am Jeff Hagener, Director of Montana Department of Fish, Wildlife & Parks (FWP). I come before you today in support of Senate Bill 115 which would provide for all money collected by courts for restitution for the unlawful taking or possession of wildlife would go to FWP for law enforcement and hunter education.

In discussing this bill, it is important to make the distinction between a fine and restitution. A fine is a penalty paid upon conviction or pleading guilty to a crime. For example, if a hunter is cited for failing to validate a deer tag, the court may impose a fine of a few hundred dollars. The main purpose of a fine is to serve as a deterrent to crime. Half the proceeds from the fine go to the county in which the case was prosecuted, the other half go to the general fund.

On the other hand, restitution is a penalty paid to the state to compensate the citizens of Montana for a loss suffered as a result of a crime or act. In addition to serving as a deterrent, it is a reimbursement and in the legal sense, an attempt "to make the state whole." The restitution values for unlawfully taken wildlife are set in MCA 87-1-111 and 87-1-115.

Currently, under 87-1-114 MCA, the restitution collected by the state from wildlife crimes is distributed with the first $60,000 going to FWP. These monies are dedicated to law enforcement and remedial hunter education. The remainder goes to the State General Fund.

SB 115 Proposes to revise 87-1-114, directing all restitution collected for the illegal killing or possession of wildlife to FWP for enforcement and remedial hunter education. This accomplishes two important things. First, it provides a means for the person convicted of serious wildlife crimes to help defray the costs incurred in the investigation of crimes as well as trial preparation. In essence, those involved in unlawful activities pay for investigations—poachers pay to help catch other poachers.

Second, this would increase the funding available to FWP for enforcement and hunter education by approximately $67,000 annually. For the last six years, the average amount of state restitution collected has been $127,956. The Enforcement Division primarily operates with hunting and fishing license dollars. Thus, the costs of these extensive investigations are being borne by license dollars that come from sportsmen.

A common misperception about SB 115 is that it would encourage Wardens to write more tickets. Returning to the distinction between fines and restitution, most citations issued in the field by wardens do not result in restitution. There is no reason for wardens to cite more people for hunting or fishing without a license, taking over the bag limit or similar minor violations, because these citations do not lead to imposition of restitution.

Restitution most often comes from the prosecution of those who are involved in the large-scale unlawful commercialized, exploitation and abuse of Montana's wild resources. These cases typically involve extensive and expensive investigations, often in multiple states. SB 115 provides a means to direct all proceeds of restitution to those efforts, making those who break the law pay the bill for investigations and prosecutions.

We encourage this committee to support SB 115.