

SENATE FISH AND GAME

EXHIBIT NO. 3

DATE 3-29-07

BILL NO. HB 439



**AMERICAN FISHERIES SOCIETY  
MONTANA CHAPTER**

1716 West Main St.  
Bozeman, MT 59715  
March 20, 2007

Joe Tropila  
Fish and Game Committee Chair  
Montana Senate  
PO Box 200500  
Helena, MT 59620-0500

Dear Mr. Tropila,

The Montana Chapter of the American Fisheries Society (MCAFS) appreciates the opportunity to comment on HB439 to exempt fish ponds from licensure. The MCAFS is an organization of professional fisheries scientists and students from multiple agencies, universities, and the private sector across Montana. One of our objectives is the conservation, development, and wise utilization of Montana's fisheries. MCAFS has several comments regarding the potential impacts of this bill on Montana's fisheries.

Review of HB439 indicates that this bill would introduce confusion among landowners as to whether they are required to pursue licensing. The bill attempts to address the issue of fish escaping from a pond by limiting the regulatory scope to the ponds isolated from other surface waters. Whether a pond is in "an historic floodplain" sounds very clear, but in reality most streams in Montana do not have a defined, mapped floodplain. Therefore, the landowner is left to make this determination independently. A connection to surface water also sounds very clear, but many ponds, even those filled via groundwater pumping, have to have an outlet of some kind to keep the water circulating or in the event draining is required. These outlets may intermittently connect the waters of the pond with surface waters, but the landowner may be uncertain if an intermittent connection justifies licensing.

In addition, fish escapement is not the only potential threat that a pond can have on local fisheries and aquatic habitats. The presence of a pond supporting live fish has the potential to introduce disease and aquatic nuisance species to Montana's state waters. Montana Fish, Wildlife and Parks is tasked with protecting Montana's waters from invasive and nuisance aquatic species, but this bill would take several potential sources off of their radar screens. They cannot regulate or educate pond owners that they do not have on their records. Pond licensure is also the only way that Montana Fish, Wildlife and Parks is

informed of the number and species of fish that will be planted in a pond. The licensing process allows Montana Fish, Wildlife and Parks biologists an opportunity to assist landowners in electing species appropriate to our climate and that will not pose a threat to the state's fishery. Montana has thus far avoided colonization by some of the more insidious invasive species that are sweeping across the Midwest, but we need to maintain their ability to monitor aquatic habitats, particularly those with heavy human use, for signs of new species and the spread of invasive populations.

Licensing a pond may be a slight inconvenience to a landowner, but it also has benefits. During the licensing process the landowner can be introduced to information on how to maintain their pond, what species will do well and how to design their pond to reduce maintenance and improve habitat for other wildlife such as birds and amphibians. Montana Fish, Wildlife and Parks as well as the Montana Department of Natural Resources and Conservation would not have the opportunity to educate landowners about some of the key requirements for fish species kept in a pond, or how to recognize when a pond needs maintenance if the licensing requirement is dropped. The license costs \$10, an insignificant amount of money when compared to the cost of designing and building a pond. The license application (<http://fwp.mt.gov/content/getItem.aspx?id=9503>) addresses many of the potential conservation issues associated with ponds and is itself an educational document for the landowner. Changing the pond license requirement would NOT remove the need for most landowners to obtain a water right from DNRC; therefore, this bill does not effectively change the amount of paperwork for the landowner, nor does it benefit Montana Fish, Wildlife and Parks by reducing staff time devoted to monitoring private ponds.

Because of these reasons and the current state of invasive species across Montana, MCAFS encourages you to vote down this bill and maintain the information link that pond licensing represents for Montana Fish, Wildlife and Parks. Thank you for your interest and work toward conserving and improving Montana's aquatic natural resources.

Sincerely,

Leanne Roulson, President  
Montana Chapter of the  
American Fisheries Society