EXHIBIT 4
DATE 3/31/09
SB 485

LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor
Monica Huyg, Legal Counsel

Deputy Legislative Auditors:
James Gillett
Angie Grove

# MEMORANDUM

**TO:** Tori Hunthausen, Legislative Auditor

**FROM:** Angie Grove, Deputy Legislative Auditor
Steve Erb, Senior Performance Auditor

**DATE:** August 20, 2008

**RE:** Request for information related to warm water fisheries enhancement account and Fort Peck State Fish Hatchery operations (09L-2733)

This memo is a response to requested information related to operation of the Fort Peck State Fish Hatchery and warm water fisheries funding. Specifically, the following information was requested:

- Wallop-Breaux moneys received by the Department of Fish, Wildlife, and Parks (FWP) since 2000
- Disbursements of Wallop-Breaux monies since 2000 (to whom and for what purpose)
- Current status of funds and what agency controls Wallop-Breaux funds
- Hatchery operations expenses, with specific details of Fort Peck operations, since 2005
- Warm Water Stamp revenues since 2000 to include withdrawals and purpose from the Warm Water Stamp Fund

In responding to this request, we reviewed federal Wallop-Breaux program information, SABHRS data related to Warm Water Fisheries Enhancement Program and Fort Peck State Fish Hatchery, and spoke with FWP personnel.

## SUMMARY

During our review, we made the following observations:

- FWP has received nearly $62 million in Wallop-Breaux funding since fiscal year 2000 to support its fisheries programs.
- Wallop-Breaux funds support operations and maintenance costs at eight of the state's ten fish hatcheries.
- FWP does not use Wallop-Breaux funds to support the Fort Peck fish hatchery.
- FWP uses Wallop-Breaux funds to support warm water fishery through specific motor boat access projects and funding for the Miles City fish hatchery.
- Montana statutes limit funding options available to FWP to support the Fort Peck fish hatchery and the types of fish that can be raised.
- Fort Peck fish hatchery operating and maintenance costs exceed existing revenue resources, which will result in a requirement for additional revenues by fiscal year 2013.

## BACKGROUND INFORMATION

**Wallop-Breaux Act** – The federal government provides aid to the states for "management and restoration of fish having material value in connection with sport or recreation" through the Federal Aid in Sport Fish Restoration Act. The act also provides funds to states for aquatic education, wetlands restoration, boat safety, and boat pump outs. The act was originally known as the Dingell-Johnson Act (August 1950) but is now commonly called the **Wallop-Breaux Act** (July 1984). Funds are collected through excise taxes on certain fishing equipment, import duties on boats, and taxes on motorboat and small engine fuel. Funds are distributed to states through the **Sport Fish Restoration Account.**

**State Fish Hatcheries** – Montana currently has ten state fish hatcheries located throughout the state. The following list provides the name of the hatchery, types of fish raised, and location:

- Murray Springs Trout Hatchery, trout, Eureka
- Flathead Lake Salmon Hatchery, salmon, Somers
- Jocko River Trout Hatchery, trout, Arlee
- Washoe Park Trout Hatchery, trout-Westslope Cutthroat Trout-Arctic Grayling, Anaconda
- Giant Springs Trout Hatchery, trout, Great Falls
- Big Springs Trout Hatchery, Rainbow Trout-Yellowstone Cutthroat-Brown Trout-Kokanee Salmon, Lewistown
- Yellowstone River Trout Hatchery, Yellowstone Cutthroat Trout, Big Timber
- Bluewater Springs Trout Hatchery, Rainbow Trout-Yellowstone Cutthroat Trout-Grayling, Bridger
- Miles City Fish Hatchery, warm water fishes, Miles City
- Fort Peck State Fish Hatchery, warm and cool water fishes including walleye, northern pike, Chinook Salmon, Pallid Sturgeon, Fort Peck

The Murray Springs hatchery is owned and maintained by the U.S. Army Corps of Engineers, but operated and managed by FWP. The Fort Peck hatchery is owned by the U.S. Army Corps of Engineers, but operated, managed, and maintained by FWP.

**Montana statutes** – There are three statutes associated with either warm water fisheries or the Fort Peck fish hatchery. Section 87-3-235, MCA, identifies the Fort Peck multispecies fish hatchery purpose is "to provide healthy warm water game fish to improve the warm water fishing opportunities in Montana with minimal impact on cold water fish populations." The statute also defines what species of fish may be raised and requires that construction, operations, maintenance, and personnel costs be paid for from revenue from the warm water game fish surcharge and stamp.

Section 87-3-236, MCA, established the warm water game fish surcharge and stamp, which is required on fishing licenses of anglers fishing in specific state waters. Funds collected from sales of the warm water game fish stamp, or other defined sources received by FWP, are deposited into a state special revenue account and administered by FWP. Funds deposited in the state special revenue account can only be used to fund operation, maintenance, and personnel costs of the Fort Peck multispecies fish hatchery. No other nonfederal funds, other than those collected through donations or warm water game fish stamps, can be used to support the Fort Peck hatchery.

Section 87-3-237, MCA, established the warm water fishery enhancement account as a state special revenue account managed by FWP. This legislation required FWP to establish the account with a transfer of $1,000 and set up a method for individuals to donate to the account to support warm water fisheries.

## WALLOP-BREAUX FUNDING

Montana has received nearly $135 million in federal assistance through the sport fisheries restoration account since 1952. The following table indicates funding received between 2000 and 2008.

| Sport Fish Restoration Funding | |
|---|---|
| Year | Amount |
| 2008 | $9,456,194 |
| 2007 | $8,246,698 |
| 2006 | $6,862,980 |
| 2005 | $7,019,722 |
| 2004 | $6,107,345 |
| 2003 | $6,198,060 |
| 2002 | $6,841,449 |
| 2001 | $5,582,909 |
| 2000 | $5,579,059 |
| **Total** | **$61,894,416** |

Source: U.S. Fish and Wildlife Service data

Wallop-Breaux funds the majority of the FWP's fishery programs. The following table identifies how FWP has spent these funds since 2000. The table represents the largest funding categories and does not include all funds received by FWP. FWP officials note the general increasing trend in sport fish funding, but are concerned that declining sales of fishing equipment and the effect of rising fuel costs could reduce federal allocations in the future.

| | Major Funding Category | | | | |
|---|---|---|---|---|---|
| State Fiscal Year | Statewide Fish Hatchery O&M | Aquatic Education Program | Motor Boat Access Projects | Fisheries Management Program | Hatchery Improvements |
| 2009 | $2,034,051.00 | $379,875.45 | $716,124.27 | $4,420,656.00 | |
| 2008 | $1,952,780.57 | | $1,967,220.93 | $4,259,180.96 | |
| 2007 | $1,707,708.00 | $534,929.12 | $718,204.72 | $3,695,229.26 | |
| 2006 | $1,864,276.62 | $375,686.00 | $1,743,801.35 | $3,617,099.00 | $855,516.00 |
| 2005 | $1,718,519.64 | $372,494.44 | $1,910,805.64 | $3,458,675.00 | $213,750.00 |
| 2004 | $1,753,318.00 | $375,654.00 | $303,141.24 | $3,342,844.00 | |
| 2003 | $1,588,016.00 | $376,568.00 | $619,592.14 | $2,991,928.00 | |
| 2002 | $1,514,530.50 | $380,664.00 | $932,343.86 | $2,987,826.00 | $41,250.00 |
| 2001 | $1,269,150.00 | $359,703.00 | $580,195.60 | $2,669,202.00 | $1,629,412.50 |
| 2000 | $1,368,001.37 | $414,760.50 | $714,779.46 | $2,667,433.50 | $246,750.00 |
| **Totals** | **$16,770,351.70** | **$3,570,334.51** | **$10,206,209.21** | **$34,110,073.72** | **$2,986,678.50** |

Source: U.S. Fish and Wildlife Service data

Funding for the statewide fish hatchery operation and maintenance (O&M) and hatchery improvements only applies to the eight state-owned fish hatcheries, including the Miles City fish hatchery, a major source of warm water hatchery stock. The following table provides hatchery expenses for all ten state fish hatcheries.

| Hatchery Expenditures | | | | |
|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2008 |
| **Fort Peck** | $200,249 | $312,995 | $369,386 | $398,976 |
| **Miles City** | $405,059 | $383,505 | $402,518 | $513,005 |
| **Flathead Lake** | $153,388 | $110,254 | $132,638 | $157,784 |
| **Washoe** | $222,839 | $218,599 | $234,047 | $256,298 |
| **Jocko River** | $199,086 | $203,088 | $211,382 | $269,113 |
| **Giant Springs** | $259,001 | $256,938 | $286,457 | $343,917 |
| **Big Springs** | $367,206 | $369,349 | $408,708 | $450,386 |
| **Yellowstone River** | $102,312 | $132,756 | $144,485 | $152,108 |
| **Bluewater** | $249,153 | $246,319 | $256,762 | $309,510 |
| **Murray Springs** | $201,948 | $212,777 | $216,002 | $272,471 |
| **Total** | $2,360,241 | $2,446,581 | $2,662,385 | $3,123,568 |
| **Federal Funding** | $1,718,520 | $1,864,277 | $1,707,708 | $1,952,781 |

Source: Legislative Audit Division analysis of SABHRS data

Motor boat access projects account for nearly 15 percent of Wallop-Breaux funding. Since 2000, $10.21 million has been spent on motor boat access projects with $5.16 million (50.6 percent) of the total funding spent on sites requiring warm water fishing stamps. The table provides detail on motor boat access project funding since 2000. The table only includes funding spent on individual motor boat access projects without regard to other funding FWP receives to operate and maintain existing boat facilities at 60 fishing access sites through Wallop-Breaux.

| Motor Boat Access Projects | | | |
|---|---|---|---|
| **State Fiscal Year** | **Warm Water Project Funding** | **Total Expenditures all Projects** | **Percentage on Warm Water Projects** |
| **2009** | $196,979.50 | $716,124.27 | 27.5% |
| **2008** | $1,705,981.00 | $1,967,220.93 | 86.7% |
| **2007** | $0.00 | $718,204.72 | 0.0% |
| **2006** | $1,122,931.31 | $1,743,801.35 | 64.4% |
| **2005** | $850,539.90 | $1,910,805.64 | 44.5% |
| **2004** | $57,329.08 | $303,141.24 | 18.9% |
| **2003** | $150,000.00 | $619,592.14 | 24.2% |
| **2002** | $780,299.00 | $932,343.86 | 83.7% |
| **2001** | $51,365.04 | $580,195.60 | 8.9% |
| **2000** | $247,123.26 | $714,779.46 | 34.6% |
| **Total** | $5,162,548.09 | $10,206,209.21 | 50.6% |

Source: U.S. Fish and Wildlife Service data

## FORT PECK FISH HATCHERY

The Fort Peck fish hatchery was designed and built by the U.S. Army Corps of Engineers as a state-of-the-art fish hatchery situated on 96 acres adjacent to the town of Fort Peck. It is capable of producing both warm and cold-water fish but Montana statute limits what can be raised in the facility. During the 2007 legislation, a bill was submitted to remove restrictions on the types of fish that could be raised in the hatchery. However, that bill died in committee.

There is no annual federal funding provided for the annual operations, maintenance, or staffing of the facility. According to FWP, funding the operations at Fort Peck fish hatchery exceeds current warm water fish stamp revenues and the department will have to identify alternate funding sources by 2011 to continue operations beyond fiscal year 2012. Revenues from warm water fish stamp sales and interest from the associated special revenue account have averaged $320,436 annually. However, in its first two years of operation, Fort Peck operations, maintenance, and personnel costs averaged $381,672 annually. FWP projects these costs to increase to an average of $450,088 for fiscal years 2009-2013 while revenues will only increase to an average of $370,999.

Collections of revenue from warm water fish stamps started before Fort Peck hatchery began operations in 2006. This situation allowed FWP to establish a positive balance in the state special revenue fund established to hold these revenues. However, in 2005, revenues (warm water stamp proceeds and interest) exceeded Fort Peck hatchery expenses (Operations overhead and hatchery expenditures) by $59,523. In 2006, expenses exceeded fish stamp revenues by $20,327. In fiscal year 2008, fund balance has decreased to the point where interest revenue is declining. Unless alternate sources of funding are identified, the special revenue fund balance will be insufficient to meet hatchery related expenses at the end of fiscal year 2012. The table below identifies warm water fish stamp revenues versus Fort Peck hatchery expenses, in addition to projected future year levels.

FWP officials stated the department is reluctant to commit Wallop-Breaux funds to support either the Murray Springs or the Fort Peck fish hatcheries. According to FWP officials, Wallop-Breaux funds are already allocated to other fisheries programs and reallocating these funds would likely have negative effects on the other programs. Restrictions on types of fish that can be raised at the hatchery limit FWP's ability to make better use of the facility's capabilities and could affect the department's willingness to fund the facility.

**FWP Projections for Fort Peck Fish Hatchery**

| Fiscal Year | Beginning Fund Balance | Total Revenues | Funds Available | Operations Overhead | Fort Peck Hatchery Expenses | Total Expenses | Ending Fund Balance |
|---|---|---|---|---|---|---|---|
| **2004** | $787,194 | $216,313 | **$1,003,872** | $0 | ($4,423) | **($4,423)** | **$999,449** |
| **2005** | $999,449 | $265,444 | **$1,264,893** | ($7,623) | ($198,298) | **($205,921)** | **$1,058,970** |
| **2006** | $1,086,405 | $311,833 | **$1,425,675** | ($29,440) | ($302,720) | **($332,160)** | **$1,093,514** |
| **2007** | $1,093,514 | $322,002 | **$1,417,735** | ($44,540) | ($362,075) | **($406,615)** | **$1,011,119** |
| **2008** | $1,011,119 | $317,182 | **$1,328,301** | ($41,252) | ($401,270) | **($442,522)** | **$885,780** |
| **2009** | $885,780 | $315,752 | **$1,201,532** | ($38,813) | ($415,492) | **($454,305)** | **$747,227** |
| **2010** | $747,227 | $307,657 | **$1,054,884** | ($40,184) | ($432,112) | **($472,296)** | **$582,588** |
| **2011** | $582,588 | $298,105 | **$880,693** | ($41,791) | ($449,396) | **($491,187)** | **$389,506** |
| **2012** | $389,506 | $286,971 | **$676,477** | ($43,463) | ($467,372) | **($510,835)** | **$165,642** |
| **2013** | $165,642 | $275,511 | **$441,153** | ($45,202) | ($486,067) | **($531,269)** | **($90,116)** |

Source: Legislative Audit Division analysis of SABHRS data and Fish, Wildlife, and Parks forecasts

## WARM WATER STAMP REVENUES AND EXPENDITURES

Montana statutes require that only federal funds or other designated revenues sources can be used to fund Fort Peck fish hatchery expenses. While FWP receives extensive federal funding through Wallop-Breaux, no federal funding received by FWP supports the Fort Peck hatchery. From 2002 through the end of fiscal year 2008, FWP collected $1,922,616 from warm water stamp sales and interest from the associated special revenue fund. Since 2004, expenditures at the hatchery have totaled $1,268,785. Withdrawals from the warm water special revenue fund have exclusively supported Fort Peck hatchery expenditures.

In addition to warm water stamp purchases, citizens and organizations can support warm water fisheries by donating to the Warm Water Fishery Enhancement Fund. Montana statutes established the fund in 2006 with an initial deposit of $1,000 from FWP. At the end of fiscal year 2008, the balance of this fund was $3,349 with no withdrawals occurring since inception. The original fiscal note estimated annual voluntary contributions to the fund would be $23,434.

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