EXHIBIT 11
DATE 3/10/11
SB 134

Senate Bill 134
March 10, 2011
Presented by Joe Maurier
House Fish, Wildlife & Parks Game Committee

Mr. Chairman and committee members, I am Joe Maurier, Director of Montana Department of Fish, Wildlife & Parks (FWP). I am here in opposition of Senate Bill 134.

In adopting statutes related to rule-making, the legislature has appropriately set different standards for administrative rules and annual or biennial rules that govern hunting, fishing and trapping. Administrative rules, adopted by the administrative agencies remain in effect until repealed or amended. These rules can have significant and long-lasting social and economic impacts on the human environment. Accordingly, the Montana Administrative Procedures Act contains detailed requirements agencies must meet before adopting an administrative rule. The law also provides that an oversight committee or 15 legislators can also require an economic impact statement be prepared before an administrative rule is adopted.

In contrast, seasonal rules governing hunting, fishing and trapping are adopted by a citizen commission, appointed and confirmed by elected officials. The commission adopts seasonal rules annually or biennially which, by definition, only remain in effect for one or two years.

Given the dynamic and complex nature of fish and wildlife management, the legislature has delegated governance of hunting, fishing and trapping to the FWP Commission, with the expectation that the FWP Commission will carefully consider all the biological and social implications of its decisions before setting an annual or biannual rule. When considering the rules governing hunting, fishing and trapping, the FWP Commission must balance the biological capacity of fish and wildlife populations to sustain harvest with the social goals and objectives people have for those populations.

Few government decision-making processes are as open or transparent as setting of hunting, fishing or trapping rules. Typically, FWP holds 40 to 50 public meetings across the state to gather input from citizens when hunting seasons are being considered. FWP also takes hundreds or thousands of written and email comments and the FWP Commission accepts public testimony during its regular meetings. The public and outfitters frequently testify on the economic impact of proposed hunting and fishing rules. Given the way seasonal rules are adopted, and the fact that they must be reconsidered at least biennially, FWP does not believe it is necessary or advisable to add the requirement for a formal economic impact statement to this process.

FWP is also concerned that SB134 has no requirement for when a request for an economic impact statement must be made. The request could come the day before the FWP Commission adopts the next year's hunting season, making it impossible to set that season. Unless a hunting, fishing or trapping rule is adopted, there will be no season, because the statutes provide that fish and wildlife may only be taken as provided by FWP Commission rule and those rules expire after one or two seasons. Even a late adoption would make it very difficult for hunters and outfitters to make plans and apply for permits.

FWP believes that it is not necessary or advisable to impose the same requirement on the seasonal rules adopted by the FWP Commission as on administrative rules adopted by agencies. Therefore, FWP recommends that the Committee table SB163 and allow the FWP Commission to continue its decision-making process as currently authorized under the law.