

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN KEN MESAROS**, on March 16, 1999 at 3:00 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Ken Mesaros, Chairman (R)
Sen. Mike Taylor, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Jack Wells (R)

Members Excused: Sen. Tom A. Beck (R)
Sen. Steve Doherty (D)
Sen. Chuck Swysgood (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 314, 3/16/1999; HB 315,
3/16/1999; HB 316, 3/16/1999
Executive Action: None

HEARING ON HB 314

Sponsor: REPRESENTATIVE BOB RANEY, HD 26, Livingston

Proponents: George Ochenski, MT State Parks Foundation
John Mundinger, MT Stockgrowers Association
Lorna Karn, MT Farm Bureau
Arla Jean Murray, MT Cattle Women
Janet Ellis, MT Audubon

Opponents: Arnie Olsen, Fish, Wildlife and Parks
Bob Gilbert, Sidney
Ken Hoovestall, MT Snowmobile Association and MT
Walleyes Unlimited
Alan Brown, MT Snowmobile Association
Mike Penfold, MT Park Association
Mike Foster, MT Contractors Association

Informational: Mike Pichette, MT Power Company
Elvin Fitzhugh, MT Power Company

Opening Statement by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, said HB 314 will make the FWP cease development until it has accomplished maintenance at its parks, fishing access and other recreational areas under its power. He entered a handout, **EXHIBIT(fis59a01)** and an amendment HB031403.ads by the MT Power Company, **EXHIBIT(fis59a02)**.

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Proponents' Testimony:

George Ochenski, MT State Parks Foundation, said if questioned legislators would say they don't want more fishing access sites and state parks because they don't like the impacts associated with them. He said HB 314 is brought to try and answer the complaints from residents and nonresidents. He believes the bill is a good step in the right direction.

John Mundinger, MT Stockgrowers Association, said they would support the MT Power Company amendment. They believe the good neighbor policy makes sense and they support HB 314.

Lorna Karn, MT Farm Bureau, said the farm bureau members felt the FWP was not a good neighbor for many years. They have policy dealing with the weed issue. They feel there is more work needed to be done on weed control by FWP and support HB 314.

Arla Jean Murray, MT Cattle Women, support HB 314 based on line 17, 19 and 20 of the bill.

Janet Ellis, MT Audubon, said one of the concerns the Audubon had when it was in the House was they could not do interpretive signs with the parks. She said an amendment was adopted and was found on page 2, line 30 which allowed interpretation. Ms. Ellis said the amendment left out flora and fauna wildlife and wildlife habitat. She said if an amendment was adopted to include flora and fauna wildlife they would support the bill.

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Opponents' Testimony:

Arnie Olsen, Fish, Wildlife and Parks, entered written testimony and two bar graphs, **EXHIBIT(fis59a03)**.

Bob Gilbert, Sidney, is the President of the Rock Creek Cabin Owners Association on the Fort Peck Lake. He explained Rock Creek's problems with their state park and said there now is no state park in region 6. He said there are thousands of people who come to Rock Creek to recreate and have no place to park and camp. He said the bill will not allow them to create the state park they need. They can acquire the land but they cannot develop it. He said not having state parks creates worse neighbors than not having state parks at all. He proposed some amendments on page 1, line 28 and on page 2, following line 11.

Ken Hoovestal, MT Snowmobile Association and MT Walleyes

Unlimited, said the associations feel the department is doing a fairly decent job of maintaining parks. They recognize the need for more development and more facilities. He said maintenance is never complete. He asked when is this bill null and void or when can development start. He asked what is the criteria or when do they determine when maintenance is done. He said the bill will require all parks to be maintained down to the primitive level.

Alan Brown, MT Snowmobile Association, provided written testimony, **EXHIBIT(fis59a04)**.

Mike Penfold, MT Park Association, entered written testimony, **EXHIBIT(fis59a05)** and an article, **EXHIBIT(fis59a06)**.

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Mike Foster, MT Contractors Association, said HB 314 is an example when someone has a vision of the way things should be for a state park. He thinks it is difficult to put into statutory language. He referred to Section 1, page 1, line 29 where the bills lists noise and light pollution and lose of privacy. He asked what noise pollution and lose of privacy means. He

referred to the requirements on page 2 and other parts of the bill. He said if the legislature passed the bill they are saying state parks and fishing access sites would be excluded from any economic development plan for Montana.

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Informational Testimony:

Mike Pichette, MT Power Company, said they would not take a position on the bill. He noted Elvin Fitzhugh was present at the hearing to explain the situation which they would be in if the bill would be passed.

Elvin Fitzhugh, MT Power Company, entered written testimony, **EXHIBIT (fis59a07)**.

Questions from Committee Members and Responses:

SENATOR CRISMORE asked if the bill would stop the FWP from going forward and completing the site which was acquired at McGregor Lake. **Arnie Olsen** replied he would have to look on the list to see if it is something they have already received legislative approval to proceed. He said if they have not, then yes, they would have to wait a few years to come back to the legislature.

SENATOR CRISMORE asked if the legislature acted on a bill which set a different ratio for what the FWP was going to use on a one fee for maintenance and what they could use for purchasing access sites. **Arnie Olsen** said in the past they have had language in HB 2 which would require them to coordinate with HB 5 to make sure there is adequate money to maintain the site. **SENATOR CRISMORE** recalled discussing a bill which changed a ratio where more would be used for maintenance than for purchasing. **Arnie Olsen** said he was referring to a bill being carried by Senator Swysgood. He said the bill would take the FWP's acquisition fund and change the ratio for 4 or 6 years for maintenance and decreases the amount which would go towards acquisition.

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Closing by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, said the committee has heard a lot of testimony about what is not in the bill. He commented on the FWP's testimony. He commented on the cost of a parking lot which was constructed at Big Sandy for 1.2 million dollars. He referred to line 6, page 3 which stated what the FWP could do to the sites. He stated he visited 32 state parks to see the conditions of the parks. He said it is true that

maintenance is an ongoing obligation which never comes to an end. He said when the FWP has caught up on the maintenance then the legislature will change the law. The bill has nothing to do with stopping the agency from acquiring sites. He commented on other opponent's testimony. He said Montana needs to be prepared for the people coming for the Lewis and Clark Expedition celebration.

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HEARING ON HB 315

Sponsor: REPRESENTATIVE BOB RANEY, HD 26, Livingston

**Proponents: George Ochenski, MT State Parks Foundation
Janet Ellis, MT Audubon**

**Opponents: Mike Foster, MT Contractors Association
Tim Mulligan, FWP Commission
Bob Gilbert, Sidney
Arnie Olsen, FWP
Ken Hoovestal, MT Snowmobile Association and MT
Walleyes Unlimited
Alan Brown, MT Snowmobile Association
Mike Penfold, MT Park Association**

Opening Statement by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, entered an amendment requested by MT Power, **EXHIBIT(fis59a08)** and a handout summarizing HB 315, **EXHIBIT(fis59a09)**. He said HB 315 is similar to HB 314. He said the bill takes over 200 fishing sites on streams and rivers which presently did not have any development. The bill limits camping to 7 days at these primitive fishing access sites. The bill also makes the 200 sites free of charge for Montanans. He said if the sites are left primitive we can keep them free.

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Proponents' Testimony:

George Ochenski, MT State Parks Foundation, said the reason people want to come to Montana is because of its natural setting. He said Montana does not have a way to regulate the rivers from social impact which is increasing. He referred to a primitive park in Senator McCarthy's district called Lost Trail.

Janet Ellis, MT Audubon, asked for an amendment on page 4, line 6 which would include flora and fauna wildlife and wildlife habitat.

Opponents' Testimony:

Mike Foster, MT Contractors Association, said the private sector development would be excited but he doesn't think they can convince KOA to put in a campground at Toston. He said if a lot of people come to Montana for the Centennial Lewis and Clark Expedition with a result of this bill, they couldn't even pave a road as a way to welcome them to our state. He referred to page 4, lines 14-21 which stated what is prohibited. He asked the committee to look at what is prohibited extensively. He said with this bill any fishing access site which the department acquires after July 1, 1999 will automatically be a primitive access site.

Tim Mulligan, FWP Commission, entered written testimony, **EXHIBIT (fis59a10)**.

Bob Gilbert, Sidney, said he had two problems with HB 315. He referred to page 3, line 13. He said the House did not remove Intake Dam and it is not a primitive park. He said Intake Dam is a premier paddle fishing area and in any given time, from the middle of May to the end of June, there are a thousand people a day using the area. He asked the committee to remove the word Intake Dam from the list. He commented on the title of the bill. He referred to line 24-26. He said his area has enough recreation to cause a problem but not enough to make a profit. **Arnie Olsen, FWP**, entered written testimony, **EXHIBIT (fis59a11)**.

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Ken Hoovestall, MT Snowmobile Association and MT Walleyes Unlimited, said they feel there are enough primitive parks which a bill two years ago established. They don't want to see so many areas maintained down to level of primitive parks. They feel there should be more sole serviced parks and fishing access sites for both Montanans and tourists.

Alan Brown, MT Snowmobile Association, listed the areas affected by the bill which he was familiar with. He said there are hundreds of people who use Johnsrud Park every weekend. He said the legislature should not be legislating this kind of law. They do not think development should be limited.

Mike Penfold, MT Park Association, provided written testimony, **exhibit #5**.

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Questions from Committee Members and Responses:

SENATOR WELLS asked how are the camping fees and other fees established at the sites. **Arnie Olsen** replied the fees are set by the FWP Commission through a public process which is called a biennial fee rules. Every two years the commission goes out to and accepts public comments and suggestions to what the fees should be. They make their decisions based on the public's information. **SENATOR WELLS** asked if the legislature had a direct say in establishing the fees. **Arnie Olsen** replied the legislature does for Fish and Wildlife fees but for parks fees it was delegated to the FWP Commission.

SENATOR WELLS asked Arnie Olsen if there is a possibility the fees will increase to \$15-\$20 fee to camp. He also asked what they could do to avoid the fee increasing. **Arnie Olsen** replied from his perspective most developed sites are considered primitive. He said the 1/3 of fees which they charge the public goes to maintaining the sites. He believed it will be a long time before the fees increase that high.

SENATOR WELLS asked what is the Montana State Parks Foundation, how many members do they have and what is the basis of establishment. **George Ochenski** explained who founded the foundation and how it was created. He said the foundation has been involved in the legislature for a long time.

SENATOR DOHERTY recalled in last legislative session FWP came up with so many fishing access sites. He asked why Representative Raney doesn't let the rule making process work. **REPRESENTATIVE RANEY** replied there was a bill similar to HB 315 last session. He said the bill last session was not well researched. He said very few people participate in rule making. He said a single concerned person wrote to the FWP and was able to remove the Paradise fishing access site from a list which was used for the bill. He said if they left it up the rule making process, they would have nothing.

SENATOR WELLS asked what the objective of all future fishing sites. **REPRESENTATIVE RANEY** replied the objective was to stop FWP from taking the money and put it into all the sites which need to be turned into nice places instead of just one site. He said every two years the legislature can take as many sites out of the bill or put more in.

Closing by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, asked why should the people have to fight our government to establish policy they want. He said they are the policy makers and the FWP works for them. He commented on the other legislators who signed the bill. He said the next level of development will involve the instillation of water and electricity. He asked if we really needed more full service sites then wouldn't private enterprise would step forward. He said there is only \$22,000 lose of fees for the 200 fishing access sites but the money is not recognizing nonresidents who would continue to pay the fees.

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HEARING ON HB 316

Sponsor: REPRESENTATIVE BOB RANEY, HD 26, Livingston

Proponents: Violet Papp, Former Friends of Chief Plenty Coups

Opponents: Geoffrey Wyatt, Self
Mike Penfold, MT Parks Association

Informational: Arnie Olsen, Fish, Wildlife and Parks

Opening Statement by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, entered letters of support, **EXHIBIT(fis59a12)**. He said HB 316 was reduced in the House to just a couple of lines. He read HB 316. He said he is upset with how we distribute our money through all the government. He said the agency has allowed the Chief Plenty Coup museum to deteriate.

Proponents' Testimony:

Violet Papp, Former Friends of Chief Plenty Coups, provided written testimony in **exhibit #12** and entered packet of information, **EXHIBIT(fis59a13)**.

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Opponents' Testimony:

Geoffrey Wyatt, Self, said he was contracted by the FWP to evaluate the museum and make recommendations for general cleanup and fix up what is needed to be done to the park. His report stated they did not need to clean up or fix up. They need some conservation work. He explained the work which needed to be done to the exhibits and the building. He gave his recommendations to

FWP. He explained the work he did for the building. He said the FWP were dealing with the problems at the site. His concern is if the bill makes the park a priority over other state parks.

Mike Penfold, MT Park Association, provided written testimony, exhibit #5.

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Informational Testimony:

Arnie Olsen, Fish, Wildlife and Parks, entered written testimony, **EXHIBIT (fis59a14)**.

Questions from Committee Members and Responses:

SENATOR WELLS asked where Pictograph Caves State Park was located. **Arnie Olsen** replied Pictograph Caves State Park is near Billings.

SENATOR WELLS asked out of the \$350,000 how much of the money went into Plenty Coups State Park. **Arnie Olsen** entered a handout which had all the expenditures broken out, **EXHIBIT (fis59a15)**.

SENATOR WELLS said it sounded like the FWP had done something to the state park but it also sounded liked there is a lot more which needs work. **Arnie Olsen** replied one of the main things they have done at Plenty Coups State Park was stabilized Chief Plenty Coups' log house. He said a lot of the money was used to keep the building from falling down. They made some improvements in the museum.

SENATOR MESAROS said the Fiscal Note stated over a million-dollar impact. He asked where he is going to get the money from the General Fund. **REPRESENTATIVE RANEY** replied there is zero fiscal impact. He said the Fiscal Note was written as the bill was originally introduced which required FWP and the Historical Society to merge management of these parks. **SENATOR MESAROS** said the Fiscal Note he had stated "introduced/revise".

REPRESENTATIVE RANEY replied the Fiscal Note was still prior to when the bill was broken down to these two parks in the House committee.

SENATOR CRISMORE asked if Representative Raney just want the FWP to make a priority and use the money they have. **REPRESENTATIVE RANEY** replied yes, no new money.

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Closing by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, commented on Arnie Olsen's testimony. He read an evaluation report for Plenty Coups State Park by Joy L. Cool. He said the proposed fund to upgrade the state park would cost \$1,019,000 but just to do preservation emphasis would cost \$655,000. He commented about Chief Plenty Coups and the State Park. He also commented on Geoffrey Wyatt's testimony. The only way Plenty Coups State Park was going to be brought back and saved for future generations is to tell FWP to do it.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. KEN MESAROS, Chairman

ADRIENNE PILLATZKE, Secretary

KM/AP

EXHIBIT (fis59aad)