

Acknowledgements

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Introduction

History

By Mike Aderhold

For centuries Native Americans observed and hunted Montana's wildlife. Their stories, sketched on rocks and passed on by oral tradition, constitute Montana's earliest wildlife record.

Montana's scientific wildlife record started just 200 years ago with the observations of six members of the Lewis and Clark Expedition (Lewis, Clark, Ordway, Floyd, Gass, and Whitehouse). They followed a western tradition of writing notes on paper. These pioneering naturalists documented the rich variety of wild animals that existed in Montana at the dawn of European settlement.

Heading home in 1806, the Lewis and Clark Expedition passed trappers traveling west. These mountain men were soon followed by traders. They were followed by explorers, surveyors, wealthy tourists, pioneering women, prospectors, cowboys, miners, ranchers, missionaries, merchants, railroaders, tradesmen, speculators, entrepreneurs, wolfers, tuskers, and homesteaders. Their tradition was to live off the land as much as possible. The impacts on fish and wildlife were devastating.

In 1912 William Hornaday, then director of the New York Zoological Park, wrote to several Montanans asking about wildlife that had become extinct or was threatened with extinction. In his 1913 book, *Our Vanishing Wildlife*, it was noted in the Montana section that many birds were on the verge of extinction. But the only animals that had vanished from the wild were free-roaming bison, passenger

pigeons, and whooping cranes. Threatened animals included blue grouse, trumpeter swans, most waterfowl species, long-billed curlews, white-tailed ptarmigans, plovers, grizzly bears, and moose. Montana had fewer than 3,000 elk, less than 3,000 antelope, and very few deer east of the Rockies.

REACTION

The initial reaction of residents of the Montana Territory to their disappearing wildlife heritage included passage of protective legislation, creation of a wildlife agency, introduction of revenue-generating licenses, organization of an enforcement effort, and the start of a wildlife restoration program.

EARLY LEGISLATION (1864–1893)

The first Montana Territorial Legislature (1864–65) passed a bill requiring "...a rod or pole line and hook...to catch trout in the Territory." In 1876 a law was passed prohibiting fishing with explosives, and in 1881 a law was passed prohibiting the dumping of sawdust and mill waste into a stream. Starting in 1883 the popular pastime of collecting bird eggs was prohibited. In 1893 moose and elk hunting seasons were closed statewide.

CREATION OF A MONTANA WILDLIFE AGENCY (1901)

When Montana became the 41st state of the Union on November 8, 1889, county commissioners were empowered to hire one game warden for each county. There was either no money or little concern because no wardens were immediately appointed. By 1900 only 4 of the then 24 counties had hired game wardens. The first board of Fish and Game commissioners was appointed by Governor Robert A. Smith on March 4, 1895. A state game warden, R. A. Wagner, was appointed in July 1898.

The 1901 legislature, acting on a recommendation of the Fish and Game commissioners, organized the Montana Fish and Game Department (April 1, 1901). The charter created fish and game districts and authorized the appointment of up to eight "deputies"—one for each district. The new department received more than 1,000 applications for positions that paid \$100 per month including travel expenses.

ENFORCEMENT (1886–1916)

It is impossible to regulate effectively without some degree of enforcement. This was discovered in Yellowstone National Park where, despite federal and state laws, market hunting, souvenir collecting, and livestock trespass were rampant. Early park superintendents and visiting naturalists documented the problem and finally appealed to War Department Secretary W. W. Belknap.

On August 20, 1886, Captain Moses Harris led M Troop, First United States Cavalry, into Mammoth Hot Springs, Wyoming. He took over the duties of the civilian superintendent, and his soldiers assumed the role of park police. Captain Harris was under orders from General Phil Sheridan to control the poachers, stop the vandalism, and protect the buffalo and elk.

Eight years later Congress would pass the Yellowstone Park Protection Act of 1894, giving the army some authority to arrest violators and confiscate their equipment. The army would stay in Yellowstone Park for 32 years and become the model for National Park Service rangers and western state game wardens.

Initially all of Montana's Fish and Game employees were commissioned law enforcement officers. The director was initially called the "State Game Warden," and the district employees were called "Deputy Game Wardens." One of the first assignments of new deputies was to travel throughout their districts posting the game laws.

FIRST LICENSES (1901–1905)

The 1901 legislature required nonresidents to purchase a \$25 big game license, and a \$15 license was required to hunt game birds. The first resident hunting and fishing license was created in 1905. The cost of the license was \$1, at a time when a laborer's wage was \$2 a day. Only one license was required per family. There were 30,220 licenses sold in 1905. Receipts for the year were \$30,593.50, and expenses incurred by the Fish and Game were \$16,788.40. In 1906 receipts totaled \$24,491.13, and expenses were \$17,410.95.

The new system required a support staff. The first year 300 justices of the peace were supported to some degree by license sales and fines for wildlife violations.

LAND PROTECTION AND RESTORATION (1872–1936)

In 1872 Congress set aside 3,300 square miles of land around the headwaters of the Yellowstone River "...to provide against the wanton destruction of fish and game... and against their capture or the destruction for the purpose of merchandise..." Yellowstone National Park and the enactment of its Protection Act in 1894 were the first field efforts to conserve wildlife habitat in the West.

President Benjamin Harrison started the first government "preserve" in 1892 when he set aside Afognak Island off the coast of Alaska for the protection of terrestrial wildlife, salmon, and sea mammals. President Theodore Roosevelt started the national "refuge" movement in 1903 with Pelican Island National Wildlife Refuge (NWR) off the east coast of Florida. Before leaving office in 1909, Roosevelt created 52 more wildlife refuges on federal land—all by "executive order." In 1908 Congress followed by authorizing federal funds to purchase

12,800 acres from the Flathead Indians for the first part of the National Bison Range.

Between 1911 and 1936 the state of Montana established 46 “preserves,” starting with the Snow Creek, Pryor Mountain, and Gallatin preserves in 1911 and the Sun River Preserve in 1913. Between 1913 and 1925 state refuges and preserves were established in 24 states.

The original “preserve” concept was to protect relic wildlife populations from hunting and human harassment. As these protected populations increased, they naturally spread to adjacent areas, and some resident animals were trapped and relocated to suitable habitat. In 1910, 25 elk from the northern Yellowstone Park winter range were relocated to Fleecer Mountain. This was the first Fish and Game relocation of a big game species. Butte and Anaconda hunters and anglers paid \$5 per elk to cover the transportation cost.

In 1907 the Montana Legislature created a \$1 resident fishing license. Some of this money was used the next year to open the first state fish hatchery in Anaconda. This hatchery was initially used to raise cutthroat trout to enhance populations throughout their Montana range.

Wardens and Forest Service personnel started surveying elk along the Rocky Mountain Front in 1903.

PITTMAN-ROBERTSON ACT (1937)

In 1936 the first North American Wildlife Conference brought together leaders of the most prominent conservation organizations and representatives from more than 20 agencies concerned about the nation’s wildlife resources. The “proceedings” of this meeting, compiled in one volume and now a collector’s item, brought together more information on the status of North American wildlife and the problems facing wildlife conservation than had ever been published. Out of this meeting came a commitment to develop a “national wildlife program.”

In 1937 the Senate Special Committee on the Conservation of Wildlife Resources and a similar committee in the House introduced a bill earmarking Depression Era excise taxes on sporting arms and ammunition to state wildlife agencies for conservation easements, development, and research. The Federal Aid in Wildlife Restoration Act, or Pittman-Robertson Act (named for the two committee chairmen, Rep. A. Willis Robertson, Virginia, and Sen. Key Pittman, Nevada), became law on September 2, 1937.

This law created a special fund that today continues to earn revenue from an 11 percent federal excise tax on firearms, ammunition, and archery equipment and a 10 percent tax on handguns. This fund is administered by the U.S. Fish and Wildlife Service. Most of the revenue is apportioned among the states by a

formula based on 50 percent on each state's geographic area and 50 percent on the number of hunting-license holders. No state receives less than one-half of 1 percent or more than 5 percent of the amount annually available. These federal allocations must be matched by state funds. States usually provide at least one license dollar for every three federal excise dollars (for every dollar of federal money, the states must match with 33.33 cents). One of the most farsighted features of the act was a 29-word requirement that each state prohibit diversion of hunting-license revenue to other uses. All 50 states have enacted such laws. The goal was to ensure that every state could sustain a long-term wildlife restoration and management program.

This foundation allowed Montana to buy land for wildlife (1938) and to employ its first wildlife biologists (1940). Since its passage, Montana has received \$125,230,898 in apportionments (through FY 2004). Most of Montana's 84 Wildlife Management Areas were purchased with these matching funds.

In 1970 amendments to the P-R Act gave Montana an option. Instead of submitting individual projects, the state could submit a "comprehensive fish and wildlife resource management plan" covering a minimum of five years. Once approved, projects encompassed by this plan would be routinely funded.

DINGELL-JOHNSON ACT (1950)

During World War II, Congress enacted excise taxes on fishing equipment. After the war, Rep. John Dingell, Michigan, and Sen. Edwin Johnson, Colorado, put together a bill modeled closely after the P-R program, using revenues originally derived from the 10 percent federal excise tax on fishing rods, creels, reels, artificial lures, baits, and flies. Forty percent of this allocation is based on the state's geographic area and 60 percent on the number of fishing-license holders. This law also had a requirement that each state prohibit the diversion of fishing-license revenues, and there also was a requirement for a 1:3 state:federal match. The statute was officially called the Federal Aid in Sport Fish Restoration Act. Through FY 2004 Montana has received \$103,378,741.

With this new funding the Montana Fish and Game Department (later Montana Fish, Wildlife & Parks) hired regional fisheries biologists and started a number of management projects including native fish management in rivers, the impact of logging on streams, fish problems at irrigation diversions, a study of the habits and habitat of native grayling, and, in 1955, the long-remembered exotic fish removal above the site of Tiber Dam.

It was also during the 1950s that the department's seven administrative regions were established, with regional offices set up in Kalispell, Missoula, Bozeman, Great Falls, Billings, Glasgow, and Miles City.

LAND AND WATER CONSERVATION FUND (1965)

In 1963, in response to increasing demands for outdoor recreation, Congress created the Bureau of Outdoor Recreation (BOR) in the Department of the Interior. Two years later, in 1965, Congress established the Land and Water Conservation Fund (LWCF), which uses monies from the disposal of federal surplus property, certain user fees, and a portion of the federal royalties from offshore (outer continental shelf) oil and gas production. Money from this fund is appropriated by Congress, and the amount varies. It has been as much as \$900 million a year nationwide.

The broad purpose of LWCF is to "...provide a diversity of outdoor recreation resources which would allow individual active participation in a variety of outdoor pastimes..."

Up to 60 percent of the appropriation may be used to cost-share, on a 50:50 matching basis, certain activities carried out by the states, including "...planning, acquisition and development of needed land and water areas..." Responsibility for the program was transferred to the National Park Service in 1981.

Over the years this funding has been erratic. In 1965 the funding was \$300 million; \$600 million in 1978; and \$900 million from 1980 through 1989. During the 1980s dozens of Montana communities funded swimming pools and tennis courts, and FWP's Parks Division purchased Wildhorse Island on Flathead Lake and parts of Giant Springs Heritage State Park in Great Falls.

During the 1990s the appropriations were greatly reduced, and the state/local component of the LWCF dropped to zero between 1995 and 1999. The Bureau of Land Management (BLM), U.S. Forest Service (USFS), and U.S. Fish and Wildlife Service (USFWS) all receive LWCF money, which has been used to purchase inholdings, wetlands, and some easements.

ENDANGERED SPECIES ACTS (1966, 1969, 1973)

During the 1960s concern grew about the status and conservation of our rarest plants and animals. There was prolonged debate about the role of government in protecting species threatened by human activities. The first result was the Endangered Species Preservation Act of 1966. That law directed the heads of all federal agencies within the Departments of Interior, Agriculture, and Defense to protect native wildlife declared "endangered." It also provided funds to acquire habitat for these animals, and it required the Secretary of the Interior to identify species in jeopardy.

In 1969 Congress passed the Endangered Species Conservation Act. It expanded the definition of "fish and wildlife" to include reptiles, amphibians, mollusks, and crustaceans. It expanded the listing to include animals classified

as “threatened with extinction,” and it made commercial traffic of “endangered” and “threatened” species illegal.

A few years later Congress enhanced the 1969 act to create the Endangered Species Act of 1973 (ESA). With a few changes this is the statute in use today. This law formalized the listing procedure and required the development of “recovery plans.” It increased criminal penalties, added funds for habitat acquisition, and put state “threatened” and “endangered” species under the clear authority and legal jurisdiction of the federal government.

There was also movement at the state level. In 1972 the International Association of Fish and Wildlife Agencies (IAFWA) and The Wildlife Society (TWS) developed a model state nongame and endangered species law. The 1973 Montana Legislature adopted this law on July 1, 1973. It granted Fish, Wildlife & Parks the authority to conserve resident “endangered” and “threatened” wildlife and to conduct nongame and endangered species research, acquire habitat for their use, and develop management programs for these species.

Presently, Montana has 14 species listed as either federally “threatened” or “endangered”—four birds, four mammals, three fish, and three plants. The nine threatened species include the bald eagle, piping plover, grizzly bear, gray wolf, Canada lynx, bull trout, water howellia, Spalding’s catchfly, and Ute ladies’-tresses. The five endangered species include the whooping crane, interior least tern, black-footed ferret, pallid sturgeon, and white sturgeon. Nationally there are now 276 threatened species, of which 147 are plants, and 987 endangered species, of which 599 are plants.

FORSYTHE-CHAFFEE ACT (1980)

In 1980 Congress passed the Fish and Wildlife Conservation Act, which is also referred to as the Nongame Act or Forsythe-Chafee Act (John Chafee, Rhode Island, and Edwin Forsythe, New Jersey). This act was meant to promote the conservation of nongame fish and wildlife that receive relatively little (12 to 13 percent, 1985, FWS estimate) assistance under the Pittman-Robertson and Dingell-Johnson statutes. The Forsythe-Chafee Act authorizes federal technical and financial assistance to the states, generally on a 75:25 federal to state matching basis, for the development of plans, programs, and projects benefiting nongame animals. “Nongame” is defined as those species “not ordinarily taken for sport” and which are not listed as “endangered” or “threatened” under the Endangered Species Act.

The Forsythe-Chafee Act was to be financed by general revenue appropriated annually by Congress. The statute authorized appropriations up to \$5 million for fiscal years 1982–1985, but neither the Reagan Administration nor Congress ever appropriated any money.

The U.S. Fish and Wildlife Service studied 25 potential funding methods including general appropriations, various fees, and different excise taxes. In 1986 Congress held a hearing on nongame legislation and the financing study, but because of the deficits during the Reagan and the first Bush administrations, this nongame proposal stalled.

MITCHELL ADMENDMENT (1988)

During the 1980s some dramatic declines in shore birds and neotropical migrants were documented. Several bird conservation organizations made this concern a cause, and Congress responded by adjusting the U.S. Fish and Wildlife Service's budget expressly for bird monitoring. New Senate Majority Leader George Mitchell pointed out that the USFWS, under the Migratory Bird Treaty Act of 1918 and the Fish and Wildlife Conservation Act of 1980, had the responsibility to monitor all migrating birds, not just waterfowl and raptors. The USFWS needed to identify management actions before any particular species became listed as federally threatened or endangered.

This was a strong message from Congress that it was time for the USFWS and other wildlife agencies to reexamine their programs and establish new priorities for all wildlife species. The National Audubon Society dedicated 31 pages to this specific issue in its 1989/1990 Wildlife Report.

PARTNERS IN FLIGHT (1990)

Partners In Flight (PIF) is a cooperative effort involving federal, state, and local government agencies, philanthropic foundations, professional organizations, conservation groups, and the academic community. It was launched in 1990 to promote the conservation of birds not covered by existing conservation activities. Its initial focus was on neotropical migrants—species breeding in North America and wintering in Central and South America.

The goal of Partners In Flight is to focus resources to improve monitoring, inventory, research, management, and education programs involving birds and their habitats. This group and the North American Bird Conservation Initiative, Bird Conservation International, the National Audubon Society, and others have kept the pressure on for nongame funding.

TEAMING WITH WILDLIFE INITIATIVE (1995)

The International Association of Fish and Wildlife Agencies (IAFWA) was founded in 1902, and today it includes leaders of wildlife agencies throughout the United States, Canada, and several Central American countries. In 1995 this group took on the challenge of finding money for a comprehensive wildlife management program. Traditionally, wildlife programs in western states have been almost exclusively supported by hunters and anglers.

IAFWA recruited a “team” that included the American Fisheries Society, the Izaak Walton League, the National Wildlife Federation, the National Audubon Society, The Nature Conservancy, The Wildlife Society, the Wildlife Management Institute, and others. They developed a proposal to establish a federal tax on a variety of outdoor supplies including backpacks, sleeping bags, tents, canoes, binoculars, spotting scopes, photographic equipment, bird seed, feeders, etc. The money would be allocated to states to fund programs benefiting nongame wildlife.

This movement eventually attracted more than 3,000 supporting groups, and in 1998 the team introduced the initial version of the Conservation and Reinvestment Act (CARA).

MAGNUSON-STEVENSON (1996)

During the 1980s and early 1990s, some coastal fish stocks diminished to the point where their survival was questioned. Senators Warren Magnuson, Washington, and Ted Stevens, Alaska, led the discussion about coastal species and their impact on the economy of coastal cities and towns. In the hearing for the Fishery Conservation and Management Act, much was said about the continuing loss of marine, estuarine, and other aquatic habitats. The law highlighted the need for a national program to address conservation and management of the fishery resources throughout the United States. This, along with mounting concern about bird species, added more impetus to the push for a broad-based fish and wildlife conservation program.

CONSERVATION AND REINVESTMENT ACT (CARA) (1997) FIRST ITERATION

The CARA concept came from two places. The first was the Teaming with Wildlife coalition, which initially settled on the “tried and successful” excise tax idea by which hunters and anglers supported the P-R and D-J programs. The challenge was how to get the millions of recreationists who do not hunt or fish to pony up a share of the money needed to research, monitor, and manage the majority of wildlife species not classified as “game.”

The “teaming” concept was a creative partnership of recreation groups, equipment manufacturers, retailers, state and local politicians, land management agencies, wildlife agencies, and others. The number of team members eventually surpassed 3,500. Each group wanted consideration for their special interest. The bill grew weekly and eventually had eight titles, or sections, dealing with a) coastal conservation, b) land and water funding—city parks and recreation areas, c) nongame funding, d) state parks programs, e) historic preservation initiatives, f) federal lands and Indian lands, g) conservation easement and species recovery programs, and h) federal payments in lieu of taxes (PILT payments).

This huge bill got a trial run in 1997. No one was prepared to embrace the whole thing. Unlike the gun manufacturers in 1937, many recreation equipment manufacturers and dealers were reluctant to advocate higher taxes for their customers and higher costs for their products. Some consumers broke ranks with their interest groups and expressed opposition. No senator or representative was willing to sponsor a bill with so many new taxes and so much new spending.

CONSERVATION AND REINVESTMENT ACT (CARA) (1998) SECOND ITERATION

Rather than collect money from people who buy outdoor products, some suggested using the federal royalties and taxes from offshore oil and gas leasing and production. That idea had been around since the Land and Water Conservation Fund (LWCF) was created in 1965. The revenue, which is more than \$4 billion a year, generally goes directly to the Treasury. A slice of it had been pared out for the LWCF, but the bulk of this money had been used to balance the budget since the Carter Administration (1977–1981). The Clinton Administration was enjoying prosperity and a budget surplus, so in a bipartisan move, the proposed funding source for CARA was switched to offshore oil and gas royalties. CARA would guarantee \$3 billion annually from the offshore drilling account for a 15-year period for all the programs in the original bill.

This idea started, not with the Teaming with Wildlife crew, but with a comparatively limited four-year-old proposal to use royalties from offshore oil and gas drilling to mitigate the damages caused by those activities. The initial draft plan would have created a revenue-sharing and coastal conservation fund for coastal states and the conservation of coastal areas.

Scores of lawmakers came on board at the prospect of guaranteed funding for their states. Hundreds of grassroots and national conservation groups continued to push the CARA idea in hope of winning earmarked money for their pet projects. President Clinton swore to make passage of CARA a priority in his final 2000 budget negotiations. All 50 governors supported CARA.

The Conservation and Reinvestment Act flew high the summer of 2000. It passed the House with a 315 to 102 vote and had 66 sponsors in the Senate. The Senate Energy and Natural Resources Subcommittee voted 13 to 7 to report the historic legislation to the full Senate.

As the Clinton Administration moved to a close, CARA encountered resistance. Some viewed the guaranteed, mandatory \$45 billion, 15-year stream of funding as an “entitlement” that circumvented the appropriations process. Western legislators did not like the LWCF title and its potential to shift more land from the private to the public sector. Some senators balked at the magnitude of the spending and brought up concerns about Social Security and Medicare. Still others voiced concerns about the primary maintenance backlog in national parks

and national wildlife refuges, and suggested dealing with those problems before acquiring new land. Finally, some were angry at the administration's move to create a number of new national monuments.

In the fall, just before the November 2000 presidential election, the White House backed off the CARA proposal and worked out a compromise with the House Interior Appropriations Committee. The \$3 billion a year, 15-year, guaranteed \$45 billion package was reduced to a 6-year, \$12 billion total discretionary fund called CARA Lite. President Clinton signed this bill (HR 4578) on October 11, 2000.

STATE WILDLIFE GRANTS (2001)

In 2001, during the first year of George W. Bush's administration, Congress created the State Wildlife Grant program (SWG). The purpose of State Wildlife Grant funding is to provide help to states to develop broad-based, comprehensive wildlife programs that address all vertebrate wildlife species. The hope is that implementation of such programs will avoid the expense and problems that come with recovering threatened and endangered species.

State Wildlife Grant monies are appropriated annually. So far Montana has received almost \$4.5 million: \$1.3 million in 2002, \$1 million in 2003, \$1.08 million in 2004, and \$1.09 million in 2005; plus \$852,710 from a one-time 2001 transition program called the Wildlife Conservation and Restoration Program (WCRP).

In Montana, some State Wildlife Grant funds have been used to survey prairie fish, restore native arctic grayling and westslope cutthroat trout, study sauger genetics and sauger movements in the Yellowstone River, investigate the status of native burbot, support management of the grizzly bear and the gray wolf, conserve black-tailed prairie dogs, and conduct a statewide inventory of small mammals.

To receive future funding, every state must develop a Comprehensive Fish and Wildlife Conservation Strategy by October 1, 2005. These strategies will help define a more integrated approach to the stewardship of all wildlife species with additional emphasis on species of concern and habitats at risk. The goal is to shift the focus from single species management and highly specialized individual efforts to a more geographically based, landscape-oriented fish and wildlife conservation effort.