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United States Department of the Interior

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FISH, WILDLIFE, & PARKS
DIRECTOR'S OFFICE

April 20, 1996

Mr. Patrick J. Graham
Montana Department of Fish, Wildlife & Parks
1420 East Sixth Avenue, Helena, Montana 59620
(406) 444-3186 Office

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DEPT. FISH, WILDLIFE & PARKS

Dear Mr. Graham:

Enclosed please find a copy of the "Tribal Fish and Wildlife Code Assessment" report I did as an independent study assignment, for college credit through Montana State University. This document provides information that describes the current status of Fish and Wildlife Codes on Montana Indian Reservations. It also provides an outline of problems and deficiencies that are common among resource management and law enforcement programs at the Tribal level. Recommendations and comments were provided that address issues of concern.

Please understand that my own experience in this area is somewhat limited and hopefully my comments or suggestions will provide you with some valuable information. Any feedback on my report would be appreciated.

Again I would like to express my sincere appreciation for your time and support with this report.
THANK YOU !!

Sincerely,

Lyle Allard
Biological Science Technician
Bozeman Fish Technology Center
Bozeman MT. 59715

C: W. Phillips
Wildlife
Fish
R1 R4
R5 R6

TRIBAL FISH AND WILDLIFE CODE ASSESSMENT

An Independent Study Assignment Completed by

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**Submitted April 15, 1996 to Dr. Harold Picton
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ABSTRACT- The objective of this report is to assess the status of fish and wildlife codes on Montana reservations. This was accomplished by meeting with various Tribal Resource Managers and legal/law enforcement personnel. Montana Tribal Fish and Wildlife Directors and their Conservation Officers were asked to discuss the state of their fish & wildlife codes to evaluate their effectiveness concerning management and the enforcement activities associated with the successful implementation of the code. Six of the seven Native American reservations located throughout Montana were visited. Reservations vary in size from 100,000 to 2.2 million acres.

The guidance and oversight of this project was provided by the Montana Fish and Wildlife Management Assistance Office of the U.S. Fish and Wildlife Service in Bozeman, Montana.

INTRODUCTION

A complete review of fish & wildlife codes for Montana reservations was conducted to evaluate and/or compare effective codes with rudimentary or ineffective regulations predicated on a preliminary review with Tribal and U.S. Fish & Wildlife personnel. Objectives were to compare existing codes with the Bureau of Indian Affairs "model" code, State of Montana and other Federal regulations and to identify deficiencies or problems that could have adverse impacts on the resource management (e.g., civil violations, fine schedules, seasons, etc.).

BACKGROUND

Historically, the Native American culture depended upon fish and wildlife for subsistence purposes. Several case studies of Native American culture from periods between the early 1600's until the present have described aboriginal techniques and methods of fish and wildlife management. Because there were no written game codes, tribal members were taught at a very early age to respect the wildlife resources. If tribal members abused this respect for wildlife they were often severely punished. For example in the Crow tribe if a member harvested a buffalo before the tribal hunt was organized, he would often be beaten, arms broken or his lodge cut to pieces. (Bureau of American Ethnology, bull. 169, pg 164).

This report will reflect on the current status of fish and wildlife codes on Montana reservations. Of the six reservations visited, all have some form of game codes addressing their fish and wildlife resources within the boundaries. Northern Cheyenne,

which was not visited, currently does not have a game code, but allows limited recreational opportunities.

Present day fish and wildlife codes vary on each reservation. Some allow non-members to hunt and fish, but are subject to their own tribal laws and regulations. Certain reservations will not permit anyone who is not an enrolled member to hunt. A few reservations will issue special permits that allow non-members to hunt certain big game species for a significant fee, but require tribal guides to be present during the hunt. Fishing is permitted with the proper permits on all Montana reservations, except the Crow.

THE CROW RESERVATION

The Crow Reservation, home to approximately 9,000 members of the Crow tribe, is located in southeastern Montana and is the largest reservation with 2,282,000 acres. The Crow Nation consists of tribal land, trust land, and fee land which is scattered through its boundaries. At present the Tribe can only enforce trespass laws on tribal trust lands, but due to inadequate game codes, tribal game wardens do not effectively enforce the laws. The other problem is lack of State enforcement on fee lands. These problems often create a situation that favors poaching by both members and nonmember individuals.

Major problems facing fish and wildlife department concerning management of wildlife resources:

- A. Wildlife officers lack proper law enforcement training and techniques that are valuable to the program.
- B. Inadequate funding to meet basic needs of department.(ie. Law enforcement training, wildlife, equipment etc).
- C. The fish and wildlife department and court system do not communicate, resulting in a system "that is ineffective". Violators go unpunished, resulting in an overall loss of wildlife resources and economic revenue to the tribe.

BLACKFEET INDIAN RESERVATION

This reservation is home to approximately 14,300 members of the Blackfeet Tribe is located in northwestern Montana adjacent to Glacier National Park. It is truly a beautiful place consisting of 1.5 million acres within the boundaries. Thirty-eight percent of this land is now owned by non-Indians.

Game codes on the Blackfeet Reservation are well written and are easily understood by tribal members. There is a strong Fish & Wildlife Department. Big game hunting is closed to non-Indian and non-members. Fishing on the Blackfeet Indian Reservation is offered to the public by permit only.

Major problems facing the Fish & Wildlife Department concerning their wildlife resources are:

- a. Shortage of conservation officers to patrol and protect the area. Currently there are four full time game wardens employed.
- b. Training of these officers is of great concern to the court systems within the Blackfeet tribes. Game violation tickets are written poorly and often evidence is presented poorly to the courts, which impedes prosecution efforts.
- c. Job security of the conservation officers is a problem. Law enforcement personnel are apprehensive about reprimanding certain people because they may lose their job. Therefore, codes are not enforced to their full potential.
- d. The court systems and the Fish & Wildlife Department do not communicate with each other. Supporting each other is imperative when enforcing game violations.

FORT BELKNAP RESERVATION

This reservation is home to approximately 5,100 members of the Assiniboine and Gros Ventre Tribes. The reservation, located in north central Montana, contains 651,119 acres with 28,731 acres of tribal land located outside the reservation boundaries. The Fort Belknap Tribes actively manage their fish and wildlife resources, including 180 head of bison on 4000+ acres of land, rich with history, and culture known as the Snake Butte Land. One or two buffalo are killed yearly for tribal members during spiritual ceremonies only.

Fort Belknap has a very dedicated Fish & Wildlife Department managing a game code that is well written and enforced. The current regulations allow distribution of 300 big game hunting permits. These are \$5 each to tribal members; first come, first served. Tribal members can fish year round without a permit. General regulations for a non-tribal member allow permits for fishing, and hunting upland game birds, and big game (antelope and deer only). Also three buffalo hunting permits are issued yearly to non-members.

Some major problems surrounding the Fish & Wildlife Department are listed below:

- a. Poaching within reservation boundaries by non-members and members is an ongoing problem.
- b. With only three full time game wardens to patrol this amount of land, the number of violators that are caught is few.
- c. Financial support is not being adequately provided to the Fish & Wildlife Department for professional game warden training and equipment. Field studies that support wildlife management are lacking.
- d. Fines and punishment by the tribal court system are not severe enough to discourage game violators.
- e. With no check stations and a lack of manpower, members reuse permits as many times as they want or until they are confronted by conservation officers when they pass game stations and have to relinquish the permit.

NORTHERN CHEYENNE RESERVATION

This reservation is located in southeastern Montana, and is home to approximately 6,500 members of the Northern Cheyenne tribe. The reservation is 444,157 in total acres. There are 292,779 acres in tribally owned land and 140,013 acres in allotted land.

At the present time, no fish and wildlife codes are established on this reservation. Without fish & wildlife management, the probability of maintaining these resources will be nearly impossible. However, fishing permits are available to the public for a fee.

ROCKY BOY'S RESERVATION

The reservation is located in northern Montana and is home to approximately 4,600 members of the Chippewa-Cree Tribe. This is one of two reservations in Montana that has been granted status as self-governing under PL. 103-413. It is also the smallest reservation in Montana. Most reservations were established by treaties, but Rocky Boy was established by congressional action in 1916. The reservation land base consists of 107,613 total acres, and was the last reservation to be established within Montana.

The first tribal game codes were written in such a fashion that tribal members' rights took priority over the rights of fish and wildlife. Hunting and poaching goes hand in

hand. Native American culture is often a common excuse for poachers. The present game codes allow tribal members to purchase big game tags for a small fee. This tag is good for one animal, but this policy is frequently abused. Permits are available to non-enrolled members and non-Indians for fishing, upland game birds, waterfowl and limited big game (deer hunts only).

Major problems within the Rocky Boy Tribe's Fish & Wildlife Department are:

- a. Conservation officers lack basic law enforcement training and are unwilling to leave the reservation for training. For most Native American, people leaving a reservation is a difficult experience even for a short period of time.
- b. Only two conservation officers patrol Rocky Boy's. They are overworked seven days a week, and underpaid; in most cases less than \$10,000 annually.
- c. There is minimal support for the Fish & Wildlife Department by the tribal court systems. Most tribal judges and prosecutors would dispute this statement, but tribal game wardens claim that most cases presented to the courts are thrown out. The courts say this is because reports are written poorly and there is usually lack of crucial evidence.
- d. There is very limited financial support to upgrade vehicles, communication, systems, and surveillance equipment. Most of these are a vital part of maintaining an effective law enforcement department.
- e. The reprimands handed down by the courts are ineffective in that the violation and consequences for committing the violation are not comparable. Therefore, violators are not concerned about getting caught because they know there is a good chance of getting away with the infraction, leaving little incentive on the part of the conservation officers to try to enforce existing game codes.

FORT PECK INDIAN RESERVATION

The Fort Peck Reservation, located in northeastern Montana and home to more than 10,000 members of the Assiniboine and Sioux Tribes. This reservation encompasses more than two million acres of rolling prairie and river bottom land. Fort Peck got its name from a trading post near the reservation, which is now covered by the waters of the Fort Peck Reservoir located west of the reservation.

Major problems of the Fish & Wildlife Department are as follows:

- a. Game codes are written well but with a number of loop holes in them. Unfortunately, lawyers are able to find these loop holes and many charges are dismissed.
- b. Poaching by members is also a problem. Conservation officers are quite efficient in arresting game violators, but the court system rarely upholds the charges brought against the violators. There is a lack of communication between the Fish & Wildlife Department and the court system as to what is expected on the reports turned into the courts.
- c. There are only three field wardens to patrol and protect more than two million acres of land. Adding to the problem is the fact that more than 50% of the land is fee land. This enables violators to cross over quickly to an area of land that is out of the Fish & Wildlife jurisdiction. Spotlighting, poaching, and trespassing issues are serious. Also conservation officers have limited access, when private fee land is involved, especially when pursuing poachers within the reservation boundaries.
- d. Big game hunting is offered only to enrolled members who have purchased a permit. Tribal members are required to follow fish and game regulations. Non-Indian and non-members are allowed to hunt upland birds with special permits issued by the Fish and Wildlife Department. Fishing permits are available through the department and local vendors, with restrictions on members as well as non-members and non-Indians.
- e. Close family ties between tribal members and leaders can result in cases being dismissed or being brought before the tribal council without game wardens present.
- f. Because of the checkerboard land mass on Fort Peck, outfitting by members and non-Indians is a major problem with wildlife illegally harvested. Some non-Indian outfitters will hire a member to escort hunters and uses his hunting privileges to remove the animal from the reservation only to turn it over a non-Indian.

FLATHEAD INDIAN RESERVATION

This reservation is located in northwestern Montana and is home to approximately 4,500 members of the Confederated Salish and Kootenai Tribes. This area is rich in natural beauty and contains the largest natural freshwater lake (Flathead Lake) west of the Mississippi River. The Flathead Reservation encompasses more than 1,242,000 acres of pristine waters and majestic mountains. The Confederated Salish & Kootenai

tribes take great pride in their ability to manage their own resources and have hired many professional resource managers and specialists that have done an excellent job of managing their many valuable natural resources. Because of this their fish and wildlife management is considered to be one the best in the State of Montana. In support of these efforts the Tribes and the State of Montana have entered into a cooperative agreement to manage bird hunting and fishing within the exterior boundaries of the reservation.

Game codes have been written professionally and accurately in every detail. The codes address and protect their fish and wildlife resources. There is a strong conservation officers staff of eleven full time persons trained in every aspect of law enforcement. These officers are also cross-deputized with State and Federal agencies.

- a. No big game hunting is allowed to anyone but tribal members, with limits and seasons clearly defined. Poaching problems are controlled with cross-depulization with the state game wardens. This is the only one of the six reservations with this agreement. Tribal and State conservation officers work together to protect fish and wildlife. The Reservation is checker boarded with private land within its boundaries however, tribal and state wildlife officers work hand to hand to control game violations.
- b. Even with all their professionally trained staff and support within the tribal council and leaders, problems occur. Violations are enforced and dealt with properly by the court system. However, violators often leave fines unpaid, and there are no consequences for this. Local law enforcement (county and state) seem to neglect this issue, therefore, violators basically are unpunished.

COMMENTS

During my visits to the reservations, I had the opportunity to observe the many valuable resources of each reservation. The geological setting is rich with all the vital components present for optimum fish and wildlife growth. Proper management in the future will derive many cultural, economic, and recreational benefits. To accomplish this, support from tribal leaders is critical. Training and education will also play a key role toward prudent conservation, protection and preservation of these vital resources. Professionally trained conservation officers will assit the court system in its effort to properly enforce wildlife laws. Resulting in stronger fines and punishment levied against violators. Many of the problem areas identified in this study exist in some form on each reservation. The resolution of these problems is imperative if the land along with its natural resources are to be enjoyed by future generations. A quote from Chief Sealthe *Seattle* probably says it best; "What is man without the beasts if all the beasts were gone, men would die from great loneliness of spirit for whatever happens to the beast also happens to man, all things are connected".

SUMMARY/SOLUTIONS

A number of ideas can be put into place for any fish and wildlife program to be successful. Below is a list of things that I have witnessed and some of my own recommendations.

- a. Better communication, as well as cooperation is needed, between the tribal council and governing body, the Fish & Wildlife Department, and the court system, (i.e., one reservation department wrote several citations to non-member violators, but none were convicted, this reflects the problems that exist when prosecuting non-members in tribal courts).
- b. Public support from surrounding areas, including non-Indian land owners within the reservation boundaries is necessary. Game codes need to be written and circulated throughout the reservation, nearby towns, and counties bordering the reservation.
- c. Bring resource oriented education into the school systems. As a tribal member myself, I feel it is very important to educate our youth and help them to understand the value of our wildlife resources from a biological point of view.
- d. Communication and cooperation between other tribal fish and wildlife departments to share ideas and valuable information. Work closely with state and federal agencies.
- e. A well-defined game code could be written for all reservations. The game code regulations would encompass all of the reservations. Fines and/or punishment would be the same for all violators regardless of the reservation. Law enforcement agencies would be required to enforce these laws also, by making it part of their job to arrest violators who have not paid fines and by cooperating with other tribal law enforcement agencies.
- f.. Expand budgets to allow increased law enforcement efforts, and fund fish and wildlife resource management needs.
- g. More training for officers on proper techniques for collecting information and making arrests.
- h. Closer coordination with state wildlife officers.
- f. Currently, a Commission made up of Directors from Montana/Wyoming tribal fish and wildlife/resource departments, has been established. Their goals are to assist tribal governments with the prudent management of their vital natural resources, while working closely with state and federal agencies. I commend them for this effort and see many positive things coming from this group of dedicated resource managers.

In closing, I would like to thank everyone who supported me while writing this report. Your time and information have been invaluable. Your knowledge and your willingness to share information will be a benefit to both Indian and non-Indians alike.

The author of this study is an enrolled tribal member of the Turtle Mountain Band of the Chippewa Tribe in North Dakota.

RESERVATIONS VISITED:

1. Crow Tribe, Crow Agency, Montana 59022
Ertis (Ricky) Fighter, Sr. & Vernon Whiteman
Crow Tribal Council
Game Warden Captains
(406)638-2601 Fax: (406)638-7283
2. Ft. Belknap Gros Ventre & Assiniboine Tribes
Mike Fox, Director of Ft. Belknap
Fish & Wildlife Department
Ft. Belknap Indian Reservation
PO Box 429
Harlem, Montana 59526
(406)353-2205 Ext. 423 Fax: (406)353-2797
3. Blackfeet Indian Reservation
Ira Newbreast, Director
Fish & Wildlife Department
Blackfeet Tribe
Box 850
Browning, Montana 59417
(406)338-7207 Fax: (406)338-7530
4. Rocky Boy Indian Reservation
Robert Belcourt, Natural Resources Specialist
Chippewa Cree Tribe
Rocky Boy Route - PO Box 542
Box Elder, Montana 59521
(406)395-4207 Fax: (406)395-4497
5. Ft. Peck Indian Reservation
Gerald "Boots" Jackson, Director
Fish & Game Department
Assiniboine & Sioux Tribes
PO Box 1027
Poplar, Montana 59255
(406)768-5305
6. Confederated Salish & Kootenai Tribes of Flathead Res.
Brian E. Lipscomb
Natural Resources Department
Division Manager Fish & Wildlife
Recreation & Conservation
PO Box 278
Pablo, Montana 59855
(406)675-2700 Fax: (406)675-2806

B. ONLY MONTANA RESERVATION NOT VISITED:

1. Northern Cheyenne Reservation
Jason Whiteman Sr. Director
Natural Resources Dept
P.O.BOX 128 (406) 477-6506
Lame Deer, MT.59043

DEFINITIONS

1. **Trust land** - land on which the U.S. Government holds level title for the benefits of Indians.
2. **Fee Land** - those lands within the exterior boundary of a reservation not held in trust or subject to restrictions on alienation and which is in private ownership.
3. **Allotted Land** - tribally owned or individually owned Indian lands which may be held in trust by the Federal Government.
4. **Member** - any enrolled member of an Indian tribe.
5. **Non-Indian** - means any person not legally recognized as a Native American by blood percentage.
6. **Non-Member Indian** - a legally recognized Native American who resides on or visits a reservation for which he or she is not enrolled.
7. **Reservation** - all lands within the limits of any reservation under jurisdiction of the United States, notwithstanding the issuance of any patent, and including right-of-ways running through the reservations.

(Tribes with trust lands outside the exterior boundaries of their respective reservations might consider expanding this definition to include those lands.)
8. **Fish** - all fish within the waters of the reservation.
9. **Wildlife** - shall mean any form of birds and mammals including their nest or eggs.
10. **Big Game** - shall include but not be limited to mule deer, whitetail deer, elk, antelope, bison, bighorn sheep, mountain goats, and black and grizzly bears.
11. **Upland Game Birds** - includes but is not limited to grouse, prairie chicken, pheasants, partridge, and quail.
12. **Tribal Council** - governing body of a reservation in both financial and overall leadership of all tribal land and resources within its boundaries.
13. **Cross Deputization** - state, federal and tribal law enforcement officers working together to enforce game codes on and off reservations.
14. **Self-Governed** - All tribal land resources controlled by tribal members with little help from outside agencies (State or Federal)