



A Look Back—And Ahead

by Mike Mehn, Montana Game Warden

America's conservation legacy is one that dates back to the early days of a fledgling nation and the establishment of game laws and their enforcement is no small part of that. In 1788, John Quincy Adams wrote, "...It is certain that where there are no game laws, there never is any game and that without game laws very few individuals will enjoy the privilege of hunting and eating venison." By the mid-1800's the country had grown and there was recognition that further

conservation efforts needed to be made to ensure that there would be a wildlife legacy. Several eastern states enacted additional game laws and hired the first game protectors (or "moose wardens" as some were called) as states realized the need to conserve their dwindling wildlife resources.

The westward expansion opened new vistas as well as abundant and previously unseen fish and wildlife populations to a growing country. Over time, subsistence and commercial taking of wildlife in the west depleted these once teeming resources. Buffalo were all but eliminated by the mid-1880's; elk, deer, and antelope were reduced to small, scattered herds, fisheries were depleted and bird migrations that had once darkened the skies became simply random flocks. This near total annihilation of big game and birds came not as the result of poor habitat, but as the direct result of unregulated over-hunting, coupled with a lack of comprehensive conservation laws and inadequate enforcement of those few laws that did exist. Nonetheless, there were visionaries – hunters, outdoors people, social and political leaders – who saw the writing on the wall. People such as Theodore Roosevelt, John Muir, Gifford Pinchot and George Bird Grinnell, took up the gauntlet on behalf of a new conservation ethic.

Montana's conservation legacy began in 1865, when the first territorial legislature passed a bill requiring pole, hook, and line as the only legal means of taking trout, in response to market fishing that had depleted native fisheries throughout the state. Other conservation laws quickly followed, including some of the first stream pollution regulations and a ban on the commercial sale of game animals, game birds, and trout.

The need to have a means to enforce these laws in the vastness of the Big Sky was recognized in 1889, the same year Montana achieved statehood, and when the legislature also provided the authority for counties to hire game wardens.

In 1895, the Montana Legislature saw the need for a formal state conservation agency to oversee Montana's wildlife resources and created the Board of Game Commissioners. Among their first actions was the setting of formal hunting seasons, the establishment of bag limits, and the granting of authority to each of the then 24 counties, on the commissioners' behalf, to hire one game warden to protect and preserve the diminishing wildlife. For a number of reasons, however, only four counties hired wardens.

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Awaiting the new wardens was a public that held general indifference and widespread disregard for game laws. It was to take years of diligent work to begin to effect a change in these attitudes. Wardens traveled throughout their districts talking to landowners, citizens, local officials and sportsmen of the need for game laws and tough enforcement of these laws. They did so on horseback or by catching rides on trains.

In spite of these hurdles, wardens managed to patrol and apprehend violators in their enormous districts. Early court records list individuals arrested for such offenses as selling speckled mountain trout, offering for sale quail and duck, using nets, seines, and grab hooks to catch trout, dynamiting fish (a felony) and taking game out of season. Early judges took a tough stand on such violations. Many offenders were sentenced to jail and fines ranged from \$25 to \$500, which was a good bit of money on those days.

Tragedy struck in 1908, when Warden Charles Peyton was killed along with four members of a Salish hunting party in a shootout up the Swan Valley. Conflicting accounts and testimony in the controversial case, along with the loss of critical evidence and the disappearance of a key witness led to the dropping of charges by the state. What precisely took place remains a point of issue to this day, as well as a well-known subject of Salish oral tradition.

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Although the enforcement of fish and game laws was their primary duty, wardens were also pioneers and active participants in Montana's early wildlife restoration programs. Pheasants, quail, and Hungarian Partridge were put into many new areas. In 1910, Warden Nelson of Livingston, believing the elk herd near Gardiner was growing too large for the available forage, solicited the help of local rod and gun clubs to transplant the elk into other areas where the habitat was more suitable. With the assistance of the Hamilton and Stevensville clubs, he captured 100 elk adjacent to Yellowstone National Park and shipped them to the Bitterroot on the Bitter Root branch of the Northern Pacific Railroad. This endeavor sparked numerous other requests for elk from around the country and in the next five years, more than 5,000 elk were shipped out of Park County. With the assistance of sportsmen's groups, wardens began transplanting elk, deer, antelope, and other big game animals as well as furbearers and game birds into areas of the state. The U.S. fish hatchery in Bozeman and the first state fish hatchery in Anaconda supplied fish for the stocking of lakes and streams throughout Montana. By horse, wagon, and later by special railroad cars, trout were introduced into waters that had low populations or were devoid of fish.

The advent of the automobile greatly extended the mobility of the Montana sportsman; so much so that by 1920, law had been passed restricting the use of motorized vehicles in the killing of game. Wardens began using the family flivver for work and were reimbursed for the expense of travel. Although motorized transport created new challenges to wildlife and law enforcement, it also eased the difficult job of patrolling the thousands of square miles assigned to each officer, although roads were basically non-existent.

By 1930, the department had increased the number of wardens to 22. Arrests for violations of fish and game laws nearly tripled between 1920 and 1930. Unlawful commercial use of wildlife remained a problem with elk being shot for their 'ivories' and the sale of wild game meat was still quite common.

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The 1930's were tough on both people and wildlife, with drought and the depression taking their toll on Montana. The Fish and Game Department was also struggling to keep its small force of wardens on the payroll. Warden A.A. O'Claire, who would later become the director of the department, reported that his expense claims and salary were temporarily discontinued. As might have been expected, department revenue plummeted during the depression due to the reduced sale of hunting and fishing licenses. Wardens found it necessary to reduce their enforcement activities due to decreases in their budgets. In spite of these limitations, the department continued to advance. Thousands of game birds were released throughout the state, Montana's first resident hunting licenses for deer and elk were sold for a dollar, and antelope seasons were opened in small areas of the state.

In 1935, the department issued the first uniforms to wardens, primarily for dress use and special occasions. Although not worn on a daily basis, most wardens owned their own revolvers. They typically carried a badge and a copy of the fish and game laws while on duty. When officers were not in uniform, wardens would often be privy to incriminating tales and unintended confessions while mingling with hunters and fishermen.

At the beginning of World War II, wardens furnished their own cars for work and were paid \$20.00 a month and up to \$30.00 a month for gas, oil, and tires for use of their vehicles.

Wardens annually attended law enforcement schools where personnel from the Attorney General's office offered instruction in the interpretation of wildlife laws. During the early years of the war, short courses were conducted by authorities in various wildlife-related fields at Montana State College in Bozeman. Courses were well-received by wardens who were later able to use this training in conjunction with their field work.

As the war in Europe escalated, wardens were instructed to make every effort to lay out their trips in such a manner as to maximize work with a minimum amount of travel due to shortages. In February of 1944, the Commission Chairman, Dr. Severy, wrote to the wardens, "The Commission realizes that the war has complicated the problem of living for each of us. This is a time when each of us as to bend every effort to protect what we have. With point rationing of meat, it behooves each warden to make a special effort to keep poaching at a minimum, and thus protect our fish and game population for the benefit of our citizens when they return from military service and war industries." The need for able-bodied men to assist in the war took a number of Montana wardens away from wildlife law enforcement for the duration. By the end of the war, warden ranks had been reduced to 23 active, from 34 wardens at the onset of the war.

With the end of the war, the state was rediscovered as a sportsman's paradise. Wildlife numbers began to expand in both range and number. The sale of Montana hunting and fishing licenses doubled between 1940 and 1950. Whereas in the 1930's it was usually noteworthy if a warden saw game while on duty, wild game was commonplace by the late-1940's, with deer numbers reaching an all-time high. Warden E. Bensch, while working the Gardiner area in January of 1947, recorded that in one day he checked 234 hunters who had taken elk. On the downside, he also noted that three hunters had been shot and another one had died of a heart attack.

The 1950's saw wardens making an increased effort directed at preventing violations. Public information and educational efforts became an increasingly important part of the job of a warden. Duties of the warden continued to increase with less than half of their time being devoted exclusively to law enforcement. The remainder of their time was devoted to administrative endeavors such as inspections of license agents, game and fur farms, fish ponds, outfitters, and fur dealers. Educational activities such as hunter safety and boat safety rounded out the warden schedule.

Communication in the field was greatly enhanced when radios were installed in warden vehicles in 1952, although the early units were bulky and noted for their lack of reliability. For the first time, in 1956, department vehicles were furnished to wardens.

The 1960's brought about other changes. In 1960, wardens began to wear uniforms on a daily basis. The uniform was a monotone grey pants and jacket combination. It was around this time that the position of warden sergeant, or enforcement specialist, was established in an effort to offer an experienced person to assist the field warden in investigations and special patrols.

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The 1970's brought about further expansions of warden responsibilities. In 1959, they had been instructed to enforce Montana boat safety laws and in 1970 the enforcement of snowmobile safety laws was added to the list of warden duties. Other duties that were added in the 1970's included the inspection of taxidermists and the licensing of falconers, roadside zoos, and outfitters. It was during this time period that wardens began checking boats and snowmobiles for compliance with the laws requiring the display of tax paid decals. More recently wardens have been authorized to enforce laws regarding criminal trespass, criminal mischief, littering, and stream access.

The warden job is not without some hazards. Throughout their history Montana wardens have been injured or killed in a variety of accidents involving planes, vehicles, boats, horses, and other causes. Nationwide surveys show that, statistically, the job of game warden or conservation officer is one of the more hazardous in the law enforcement field. During a 30-year career, a warden will have an 80% chance of being assaulted. In 1973, Thompson Falls game warden Gene Sara was shot and killed while assisting the local sheriff with a domestic disturbance complaint.

Today's wardens receive training in a variety of law enforcement fields, that run the gamut from self-defense and firearms training to investigation and forensics, general law review, constitutional law, wildlife biology, and even report-writing; this, not to mention maintaining current in FWP laws and their

implementation across the state. New wardens must undergo thorough training before being assigned to a warden district. FWP Wardens remain the only law enforcement officers in Montana who, in order to qualify, must possess a four-year university degree in a wildlife, criminal justice or related field. New officers are put through training school sponsored by the department. Montana FWP Enforcement has used a Field Training and Evaluation Program since 1995 for the consistent training of new probationary wardens. In 2007, the Field Training Officers met and recreated a FTEP program that incorporates community-based policing and problem-solving exercises, as well as additional tasks. This “new and improved” training method has proven itself as an outstanding model to train by. Within the first year of hire, the warden must graduate from the 12-week Montana Law Enforcement Academy basic course. Upon graduation, the new warden will spend the next year as a probationary officer and receive additional training from experienced wardens.

Currently, the average warden annually contacts over 1,500 hunters and anglers, issues about 60 citations, and drives approximately 20,000 miles. The 74 field wardens in Montana each patrol a district which averages over 1,800 square miles. These districts are covered using modern mechanized vehicles and other equipment including trucks, aircraft, ATV’s, and snowmobiles. After more than 100 years, horses are still used in the back country and for special patrols.

The job of Montana State Fish and Game Warden has changed significantly since the early 1900’s. At the turn of the century their needs centered around a good horse, a tent, the dedication to protect remnants of once vast fish and wildlife populations and the tenacity to apprehend the poacher. Today’s wardens are professionals who enforce a multitude of ever-increasing laws, focus on educating the public, and who represent the Montana Fish, Wildlife & Parks department wherever the job takes them. The pad and pencil has given way to the laptop and the cell phone and officers are working to address problems that were not even considered in the early 20th Century, such as wildlife abundance, urban wildlife conflicts, the fragmenting of habitats, loss of public access on private ground, and new landowners who do not hold many of the traditional values we came to count on, wildlife management and law enforcement.

The wardens of the 21st Century are striving to meet the new challenges of resource protection with the same determined commitment to tradition as those of the past.

About the author

Mike Mehn, a retired Montana FWP Warden, is a 27-year veteran of Law Enforcement, having been stationed in the Fort Peck, Libby and Dillon districts, served in our undercover unit, and with his career culminating as the Law Enforcement Training Officer in Helena. Mike was a contributor to the original Montana Game Warden Magazine, first published in the late-1980’s.

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