

Montana State Senate

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AUG 31 2009



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**LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE**

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The Big Sky Country

Joe Maurier, Director of Montana Fish Wildlife & Parks
1420 E. 6th Ave.
P.O. Box 200701
Helena, Montana 59620

August 28, 2009

Dear Director,

On August 11, 2009, I sent you a letter dealing with your agency's illegal implementation of HB 190. I received a letter from your Deputy Director on August 20th asking that I please share any specific problems.

My first problem is that FWP does NOT have the authority to "carte blanche" implement HB 190 at any county bridge without first there being a "dispute" at that said county bridge. HB 190 in the title clearly states, "requiring the Department of Fish, Wildlife, and Parks to negotiate with affected landowners to provide methods to ensure public passage..."

And, on page 2 of the bill in Section 3. (2) (a) if a dispute arises regarding public passage pursuant to subsection (1), the department's policy in 87-1-229 to work with private land managers to resolve and reduce user conflicts, shall negotiate with the affected landowner regarding the characteristics of an access feature of a legal fence for public passage and livestock control or property management. Etc...

My second problem is in REGION 4 STAFFMINUTES of April 28, 2009 with regards to the Supervisor's conference call, HQ wants us to identify bridges within each region that will be eligible for the access program...

And STAFF MEETING MINUTES Region 4, June 9, 2009 was discussed the merits pro and con of soliciting public involvement and 'nominations' for other bridge access opportunities.

My third problem is that in an e-mail from Chuck Bowey, AFM, CWB, Natural Resources Specialist to Madison County Commissioners, "indicating there was pressure from Helena to move faster on fixing the access problems.

My fourth problem is a letter to Mr. Steve Liebmann from Sam B. Sheppard, Warden Captain FWP apologizing to Mr. Liebmann for cutting the landowner and land manager out of the loop when implementing HB 190.

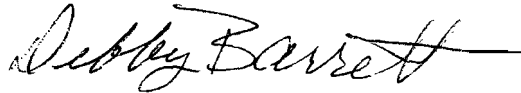
Again, Director, just whom at HQ is putting the pressure on the employees in the Regions to forge ahead in this manner?

I am requesting at this time a list of all bridges in all regions identified as a result of the April 28, 2009 Supervisor's request, and a list of all bridges in all regions "nominated" with your agency soliciting public involvement for other bridge access opportunities as reflected in the June 4 Staff Meeting Minutes.

I can't tell you, how disappointed I am that your agency employees intruded where there was NO conflict and so violated a very popular and widely supported piece of legislation....

a piece of legislation that was this state's golden opportunity to unite the sportsmen and the landowners over stream access in Montana.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Debby Barrett", with a long horizontal flourish extending to the right.

Senator Debby Barrett

Cc: PL/PW Council
EQC Members
United Property Owners of Montana
Madison County Commissioners
FWP Commission Members

REGION 4

STAFF MINUTES

April 28, 2009

STAFF PRESENT: Graham Taylor, Fred Schultz, Matt Marcinek, Bruce Auchly, George Liknes, Ken Farthing, and Jessica Plunkett

ADMINISTRATION – Acting Regional Supervisor – Graham Taylor

- Hearing rumors Gary and Roger will be back in the Region next Monday, May 4.
- Bridge Access – HB 190. Discussed yesterday at the Supervisor's conference call. HQ wants us to identify bridges within each region that will be eligible for the access program. Needed is an interpretation as to which bridges this bill affects. Bill puts responsibility of funding access points onto FWP. We're looking for a few good opportunities to get this effort off to a good start with positive results for both landowners and water users.
- Discussed new re-organization of the department. Looks like it will be coming out for all to see and addresses possible changes by this Friday. Consensus that the sooner this effort is implemented, the better.

ADMINISTRATION – Fred Schultz

- Just a reminder that our annual property inventory for the region is May 26 to the 29.
- Finally got the copier purchase approved and it looks like delivery date will be May 7.
- Front desk has really been busy with spring bear license sales after the deadline date and of course moose, sheep, goat and bison apps. Even the bad weather hasn't slow things down much.
- This year our annual support staff meeting will be in Billings, June 8-10. We will need some help covering the front desk during that period. If you can help out a few hours let me know. Thanks.

PARKS – Matt Marcinek

- Had a walk through with D & C and the contractor for the Giant Springs Park's sprinkler system. Contractor will start up work on the system again real soon.
- Had a meeting with D & C and Audubon to discuss purchasing of more trees for the Giant Springs State Park.
- We have a contract to have our pine trees sprayed for beetles at the Parks and HQ. The spray stains buildings and cars so we have to cover the buildings and be careful the wind doesn't spread the spray on vehicles, etc. We will not spray by the Springs, river, or Hatchery. We have purchased pheromone packets for those trees.
- We are involved in the planning process for the Audubon Festival to be held June 6-7 this year. They will be using several of our properties – WMA's, FAS's and Parks.
- We are having many school groups touring our facilities and parks this spring.
- Rezoning of some property across the railroad tracks has been changed to heavy industrial zoning. Some concern about our view shad. Hopefully Dave Brown, Giant Springs Water, will work with us on some screening.

STAFF MEETING MINUTES

Region 4

June 9, 2009

ATTENDEES:

Graham Taylor, Mike Martin, Roger Semler, Ken Farthing. Absent: George Liknes, Bruce Auchly, Fred Schultz

ACTING REGIONAL SUPERVISOR – *Graham Taylor*

- **Governors and Directors Awards Nominations 2009** – discussed and distributed Director's memo outlining nomination process, guidelines and award categories.
- **Bridge and Stream Access** – Discussed need for documentation of completed projects. Dearborn & Hwy 287 access first phase is complete. Additional involvement with MDOT and coordinated access and improvement is still needed. Also discussed the merits pro and con of soliciting public involvement and 'nominations' for other bridge access opportunities.
- **Property Inventory** – Helena staff visited and completed their efforts last week. Thanks to R4 staff for taking the time and making the effort to assist.

ADMIN AND SUPPORT

- **Annual Statewide Staff Meeting** – Staff is in attendance at their annual gathering this week.

COM ED & INFORMATION

- **No report**

ENFORCEMENT – *Mike Martin*

- **Smith River** – Pursued solid leads on outfitting along the Smith R. No violations could be documented nor substantial evidence collected in spite of substantial effort expended.
- **Project North Star** – Vinnedge participates this week in US/Canada training and intelligence sharing opportunities.
- **Broadwater Bay Compliance Check** – scheduled Saturday.
- **Lewistown Warden** – Todd Anderson is now a resident of this fair city on a permanent basis.

FISHERIES

- **No Report.**

PARKS – *Roger Semler*

- **Lewis FAS** – Debris and building clean up and removal has been accomplished. Power pole removal by local electric Co. is scheduled this week.
- **Eureka Reservoir FAS** – Vandalism to a portable boat ramp was investigated this week. Weekend vandals pulled out and then crushed a section of the ramp. Teton County Sheriff will investigate with good potential leads.
- **FAS nighttime closures** – are being considered for some FAS's in close proximity to population centers. Discussion ensued as to what kind of hours would be appropriate and how the closure could actually be affected.

WILDLIFE – *Graham Taylor*

- **Gbear and bbear activity** around and along the Marias River, to include activity east of I-15, has been documented in the last 10 days. Unusual to say the least. Staff are monitoring presence and any potential conflicts (so far – none).
- **Season Setting 2010-11** was reviewed. Scoping and a fall schedule of singular public meetings reviewing that scoping process were discussed.
- **Block Management Contracts** start hitting the mailboxes this week. Very limited number of new applications received. We were hindered by lack of advertising/solicitation owing to budgetary uncertainties.

From: Chuck

Sent: Monday, August 03, 2009 9:08 AM

To: Madison County Commissioners

Subject: RE: FWP Letter RE: Bridge Access

Dave, Sam Sheppard called me this morning to discuss the Bridge problem. Sam is with FWP out of Bozeman. He was apologetic for not following the process, indicating there was pressure from Helena to move faster on fixing the access problems. He was very amenable to remedy the situation. I told him to leave the rails they installed on the Duncan District Bridge. but with the bridge being rebuilt, we all need to be at the table in talking about design and access. We also agreed that landowner meetings were critical to the Lewis Lane bridge as well. He is drafting a letter of apology to Steve Liebmann. I will forward a copy to you when I receive it.

Chuck Bowey, AFM, CWB

Natural Resources Specialist



Montana Fish, Wildlife & Parks

1400 So. 19th
Bozeman, MT 59718

August 6, 2009

Steve Liebmann
P.O. Box 638
306 South Main
Sheridan, MT 59749

Dear Mr. Liebmann,

I am writing you today to express my sincere apologies for the actions taken by my staff with regard to House Bill 190. It was never the intention of Montana Fish, Wildlife & Parks to cut you or Mr. Bowey out of the loop. No construction, however minor, should have occurred without speaking with you or your representative first. It is our intention to fully involve all landowners and sportsmen's groups as we move forward on these issues.

I fully understand your frustration caused by our mistake. The one positive outcome I see is that we have developed a new protocol with a checklist. This checklist requires documentation that all parties have been contacted and involved prior to any action.

I had a very good discussion with Mr. Bowey this morning about the future replacement and construction of the Duncan District Bridge. If and when this bridge is replaced we will have an on site meeting with all of the adjacent landowners, county road crew, and sportsmen's groups and come up with the best plan for access under HB 190 at the new bridge. I also spoke with Regional Supervisor Pat Flowers and Regional Fisheries Manager Bruce Rich about the rumor that FWP intends to put in a boat ramp at the Duncan District Bridge during the new construction. This is not the case, in fact we have not even had the discussion nor do we intend to raise the issue.

Montana Fish, Wildlife & Parks is well aware of and greatly appreciates your support of the Department, our natural resources, and the sportsmen and women of Montana. If you ever need any assistance or have further questions please do not hesitate to call me.

Respectfully,

A handwritten signature in black ink, appearing to read 'S. Sheppard'. The signature is fluid and cursive, written over a light background.

Sam B. Sheppard
Warden Captain
Montana Fish, Wildlife & Parks
(406) 994-3540

C: Coy Kline
Pat Flowers
Shane Brozovich
Jim Kropp