

To: Local Government Committee -- Hearing 1/18/05 HB 133
From: Howard Chrest, Montana native, Sheridan, MT

EXHIBIT 10
DATE 1-18-05
HR 133

The reason that this bill is being introduced and supported by Madison County officials is because they are facing two lawsuits -- one if they allow public access to our rivers and streams and the other, if they do not. It is not about control of livestock -- a simple floating gate will solve this.

In Madison County some illegal electric fences still enter the right-of-way and form a maze on the abutments and bridges -- one wire is "just" above the water -- (see photos). -- The solution to this is simple -- Madison Co officials must do their job and allow public access to public waters from public roads as the laws allow.

By changing two words in the existing bill: "otherwise" to "obstruction" and "must" to "shall" plus adding an amendment to the existing bill, you would give each county throughout the state the control to individualize access policies or eliminate them.

There is a difference between zero tolerance of the public by some landowners and the disguise of keeping livestock from county roads by placing electrical fences on bridges over 10' above the stream bed. I wanted to make sure that this committee know the difference.

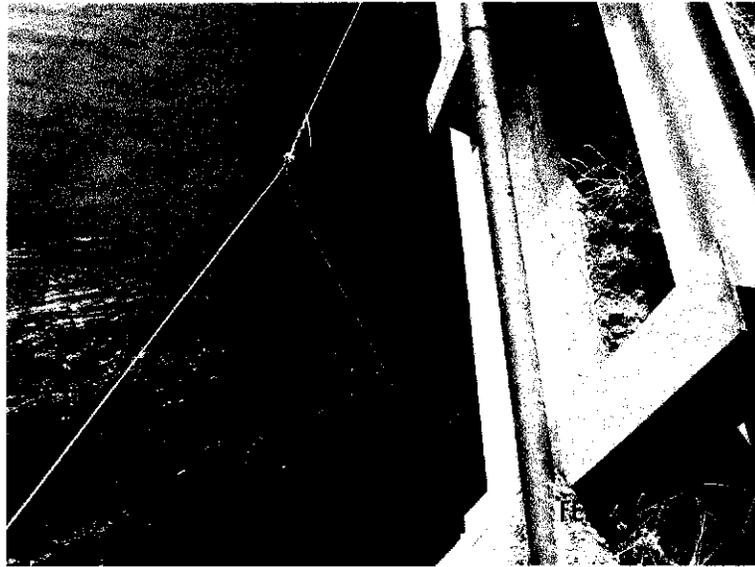
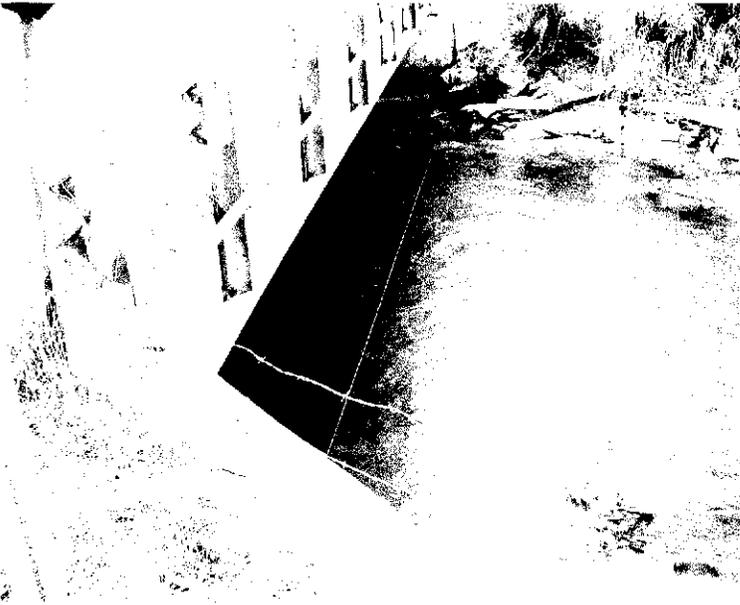
You are in the position to protect the MONTANA'S heritage for the youth, elderly, handicapped, women and men, who like to enjoy the beautiful recreational waters of this state.

I urge you to reject this bill.

Bridge Concerns – HB 133, Local Government Committee Members

- This Bill 133: It has no provisions for access. Bill 133 is designed to keep people out.
- This Bill needs to consider access for:
1. Livestock
 2. Handicapped – Federal money allotted for roads & bridges.
 3. Elderly
 4. Youth
 5. Flotation Devices
- Liability: Who is liable the County or the Landowner (Taxpayer)?
- Legal Fence
1. Need to address Electric Fences – This bill does not.
 2. Legal Fence/gates – Who installs and maintains them?
- Right of Way:
1. Maintain bridges
 2. Maintain right of way
 3. Power & phone Lines
- Options to keep livestock enclosed rather than fences attached to bridges:
1. Floating Gate as provided by F.W.P.
 2. Adjacent Landowners have property lines between bridges. These property fences do work.
- Public wants guaranteed access
1. Language actually creates more problems than it solves.
Ex. “remove any obstruction” vehicle?
 2. Language changed from “must to shall” – all bridges be treated differently?
- Economics of fishing and floating:
1. Lodging, meals, fuel, etc.
 2. F.W.P License Sales
- Legal documents related or to be considered:
1. Public Trust Doctrine 1892
 2. Stream Access Bill
 3. Legal Fence
 4. Fencing right of way
 5. Hunter/Fish Harrassment
 6. Landowner has damage/Trespass laws
 7. Lifer laws
 8. State has spent money to monitor Ruby River Flows
 9. Attorney General’s ruling – Intersect public road/waters
- Safety Options:
1. Speed Limits or Double fines
 2. Address and correct concerns
Ex. Parking – Construct Parking Areas
- Type of rip-rap Work with F.W.P. – Needs to be user friendly – not create a barrier.

Lewis Lane Road Bridge Madison Co. Rd #169
Also known as Dillon Road-Lower Rd. Conn. Est. 9/71907



Seyler Lane Bridge 3/11/04



Seyler Lane Bridge 3/11/04



upstream side of Seyler Lane Bridge
Ruby River

Signs, electric fences Still. There. spark access debate



PERRY BACKUS / THE MONTANA STANDARD

HOWARD CHREST OF SHERIDAN stands next to the Seyler Road bridge crossing the Ruby River. Sportsmen say a number of landowners along the river are illegally using electric fences and signs to keep people from accessing the river.

Bridges of Madison County controversy heats up

By PERRY BACKUS
of The Montana Standard

VIRGINIA CITY — Standing in front of the Madison County Commission on Monday, Bill Holdorf of the Butte Skyline Sportsmen Association pointed to the photograph of a county bridge over the Ruby River wrapped in electric wire.

"I'm 78, and I have a bad hip ... there's no way that I'm going to be able to get down to that river," Holdorf said. "And there's definitely no way that I can get my raft down there."

One after another, a number of fishermen and floaters

to access public waters. After about an hour of testimony, the commission seemed to agree that something needed to be done about the electric fence, orange paint and no trespassing signs inside the public road and bridge easements. At the same time, the commission told the 20 or so gathered at the Virginia City courthouse that ranchers needed to retain the ability to keep their livestock fenced in.

"There has to be some sense of reasonableness," said Commission Chairman Ted Coffman. "If the electric

any sense." The controversy over bridge right-of-ways has been brewing for a long time in Madison County.

Back in 1995, the county commission enacted an ordinance that regulated fences in county bridge right-of-ways. The ordinance forbade landowners to build fences that were designed to hamper human activity after some landowners constructed elaborate barbed wire fences that ran up to bridge abutments to keep out anglers.

Originally, the ordinance was designed to ensure that county

"If the electric fence is just for keeping people out and not for keeping cows in, well, that doesn't make any sense."

Ted Coffman,