

Testimony of Chris Fleck of January 24, 2005  
Regarding HB 269

Good Afternoon members of the House Transportation Committee. My name is Chris Fleck from Columbus. I speak to you today as a representative of Montana Trout Unlimited, but more importantly, as a private citizen as well. I come before you to urge your support of the passage of HB 269 in order to help clarify recreational access to public waters upon road and bridge abandonment. In my mind, the issue is a simple one. The waters of the State of Montana have been recognized as a public resource and where roads and bridges intersect waterways, this has been upheld as providing access for the public. Montana has a great heritage of access to and the recreational use of our public lands and waterways by its citizens. We are not seeking the creation of additional access to public waters and lands. We are merely asking that the access we now enjoy, that is constitutionally guaranteed, continue to be provided in the case of abandonment.

The access to public land and water currently created by roads and right-of-ways provides an enormous benefit to our citizenry. This type of access allows many of our citizens who may not otherwise be able to do so, to enjoy the recreational use of our streams and rivers. It relieves a great deal of the pressure off of our formal access sites and parks and allows individual and small groups of citizens to more freely enjoy access to their resources. If roads and bridges are abandoned or replaced without providing substantially the same access that currently exists, we would be depriving our citizens of one of the primary methods of access, and forcing all access to be funneled into a few formal state operated access sites that would quickly become over burdened. We have recently witnessed this along the Stillwater River in Stillwater County. Over a stretch of approximately 40 miles of river, there are currently five bridges and seven FWP access sites. A new bridge was installed and public access at this location was allowed to be abandoned. That access now must be forced onto other existing bridges, right-of-ways, or formal access sites. Losing access at one of five bridge sites resulted in a 20% loss of this type of access. In many places within our State, the transportation infrastructure is aging and in serious need of repair and/or replacement. As more roads and bridges are replaced in the future, we will continue to confront the issue of maintaining public access. I think it is reasonable to assume that the demand for access to our public lands and waterways is only going to increase over time. To allow this access to be diminished is only going to create a situation of scarcity that will need to be addressed in the future with the potential of having a much greater financial and social impact. As long as the road or right-of-way is a public one, and if it currently provides access to public land or waterways, then we must ensure that like access continues to be provided for in the future. The right of public access must remain paramount and unencumbered. It must be preserved as we face the challenges that confront us in the future regarding the replacement of our public transportation system. The passage of HB 269 is one way to ensure that access as it currently exists is uniformly provided for and maintained in the future across the entire state, and is not subject to the whims or undue influences of a few. I urge your support of this measure. Thank you for your time.

*Chris Fleck*