

Testimony on SB 43 - Revising Primitive Parks Law - January 11, 2011

To: Senate Fish and Game Committee

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The Montana State Parks Foundation has been following state parks issues since 1988. We have followed the Parks budget in great detail over that time frame and find it to be a perfect microcosm of out of control government spending. Over that time frame the agency has continuously ran out of money necessary to meet its "maintenance and operations" requirements. The reason - uncontrolled development that leads to rapidly increasing O&M and ever increasing need for FTE. MSPF recognized this problem as far back as 1991 and promoted statutes to restrict development to that which could be maintained with the revenue stream in place. {See 23-1-110)2)(d) attached}

We knew we had to do more because over time they would develop every piece of land they "own." We worked to establish Primitive Parks to make sure a few places would maintain a nature look and feel. {See 23-110 - (116, 117, 118) attached} The department squealed that they would not be able to maintain these parks unless there were fees or a steady stream of revenue to support them. In response, the legislature cracked the bed tax for the first time and appropriated 6.5 % of the bed tax to the department for maintenance of these and other parks. Each bill had well over 60 signatures and passed with huge votes.

In 1999, the legislature decided to put into statute law to make maintenance a priority over development, thus insuring that the agency could not run out of money for maintenance. (see 23-1-127 and 128 attached) The department has routinely disregarded this law, no matter how much money they are given for maintenance, they use it for additional development and then come pleading for more money for maintenance. Attached is a spread sheet showing the continuous large spending on development by Parks Division has led to near doubling of O&M costs in 6 years. In addition, the number of FTE in the Parks Division has increased.

Now, the department comes to you with this bill. They have developed nearly every popular park in their inventory except those listed in the Primitive Parks Act. In order for the department to sustain its growth pattern, it needs these parks to develop as well.

A much better idea is to kill this bill right now. It fulfills the legislative plan of nearly 2 decades ago which was to save a few special places from development. It has worked well. Further, it makes the money they would use to develop these places available for maintenance in other already developed places potentially allowing for a reduction in the parks budget. It will lower the need for additional tax and fee revenue in the future.

Thank You.

attachments:

23-1-110. Improvement or development of state park or fishing access site -- required public involvement -- rules. (1) The fish, wildlife, and parks commission shall adopt rules establishing a policy whereby any proposed improvement or development of a state park or fishing access site that significantly changes park or fishing access site features or use patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the advisability and acceptability of the proposal.

(2) The department shall prepare a public report regarding any project that is subject to the provisions of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

- (a) the desires of the public as expressed to the department;
- (b) the capacity of the park or fishing access site for development;
- (c) environmental impacts associated with the improvement or development;

(d) the long-range maintenance of the improvements;

- (e) the protection of natural, cultural, and historical park or fishing access site features;
- (f) potential impacts on tourism; and

(g) site-specific modifications as they relate to the park or fishing access site system as a whole.

History: En. Sec. 1, Ch. 367, L. 1991; amd. Sec. 2, Ch. 28, L. 1991

23-1-116. Primitive parks established. Because of their unique and primarily undeveloped character, the following state parks and management areas are designated as primitive parks and are subject to the provisions of 23-1-115 through 23-1-118:

- (1) Big Pine management area;
- (2) Thompson Falls state park;
- (3) Wild Horse Island state park;
- (4) Lost Creek state park;
- (5) Painted Rocks state park;
- (6) Ackley Lake state park;
- (7) Sluice Boxes state park;
- (8) Deadman's Basin state park;
- (9) Pirogue Island state park;
- (10) Medicine Rocks state park;
- (11) Headwaters state park;
- (12) Council Grove state park;
- (13) Beaverhead Rock state park;
- (14) Natural Bridge state park; and
- (15) Madison Buffalo Jump state park.

History: En. Sec. 2, Ch. 501, L. 1993; amd. Sec. 6, Ch. 476, L. 1995

23-1-117. Limit on development of primitive parks. (1) Except as permitted in Lost Creek state park for the limited purposes provided in subsection (3), the only development allowed in primitive parks designated in 23-1-116 is:

- (a) necessary improvements required to meet minimum public health standards regarding sanitation, which may include necessary access to outhouses, vaults, and water;

- (b) improvements necessary to ensure the safe public use of existing boat ramps;
 - (c) addition of gravel to existing unpaved roads and the resurfacing of paved roads when necessary to ensure safe public access;
 - (d) establishment of new hiking trails or improvement of existing hiking trails; and
 - (e) installation of minimal signage indicating that the park is a designated primitive park in which development has been limited and encouraging the public to help in maintaining the park's primitive character by packing out trash.
- (2) The following development of designated primitive parks is prohibited:
- (a) installation of electric lines or facilities, except when necessary to comply with subsection (1)(a);
 - (b) installation of recreational vehicle sanitary dumpsites where they do not presently exist; and
 - (c) creation of new roads and paving of existing but previously unpaved roads.
- (3) Lost Creek state park may be developed to include a camp host pad, with necessary water, electric, and sewage disposal facilities to meet minimum public health standards for the camp host. The camp host pad must be completed by September 30, 2007, and must be accomplished in the least intrusive manner possible in order to retain the primitive character of Lost Creek state park as a whole, in keeping with the spirit of the Montana Primitive Parks Act.

23-1-118. Elimination of resident user fee -- fee for nonresident use -- penalty. (1) In recognition of the right of Montana residents to use primitive parks without regard to their ability to pay, a Montana resident is not required to pay a user fee for the use of any primitive park designated in 23-1-116, except that the department may charge camping fees at Thompson Falls state park and Headwaters state park.

(2) A nonresident who wishes to use a primitive park is required to pay the state park user fees chargeable under 23-1-105.

History: En. Sec. 4, Ch. 501, L. 1993.

23-1-126. Good neighbor policy -- public recreational land. (1) The good neighbor policy of public land use, as applied to public recreational land, seeks a goal of no impact upon adjoining private and public land by preventing impact on the adjoining land from noxious weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy. To facilitate the good neighbor policy regarding impact to adjoining land from noxious weeds, the department of fish, wildlife, and parks shall, prior to purchasing any land where noxious weeds are present, develop a noxious weed management agreement that complies with the county weed management district's noxious weed management program, as required in 7-22-2154.

(2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to require the department of fish, wildlife, and parks to place maintenance as a priority:

(a) over additional development at all state parks and fishing access sites; and
 (b) on recreational land or water acquired pursuant to 87-1-209 for public hunting, fishing, trapping, or outdoor recreation.

(3) The restriction in subsection (2) does not apply to:

(a) activities directly related to the historic preservation, restoration, or protection of assets in

state parks;

(b) at the discretion of the department of fish, wildlife, and parks, projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal agencies;

(c) at the discretion of the department of fish, wildlife, and parks, projects on Fort Peck reservoir undertaken in conjunction with the U.S. army corps of engineers; or

(d) partnership projects as designated within the park master plan.

(4) Any development in state parks and fishing access sites beyond those defined as maintenance in 23-1-127(1) must be approved by the legislature.

23-1-127. Maintenance priority -- maintenance defined. *With regard to state parks and fishing access sites, implementation of the good neighbor policy requires that priority is to be given to maintenance of existing facilities, rather than to development or improvement.* For purposes of 23-1-126 and this section, "maintenance" means:

(1) placing, cleaning, and stocking of latrines;

(2) garbage and litter removal;

(3) fence installation and repair of existing fences;

(4) weed control;

(5) implementation of safety and health measures required by law to protect the public;

(6) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in state parks and fishing access sites on October 1, 1999;

(7) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those existing facilities with facilities that have less impact on the state park or fishing access site;

(8) erosion control;

(9) streambank stabilization;

(10) erection of barriers necessary to preserve riparian vegetation and habitat;

(11) minimal signage necessary to inform users of appropriate state park or fishing access site use and applicable regulations and of historical, natural, cultural, geographical, and geological features in the area;

(12) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990, when applicable;

(13) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;

(14) installation of fire rings, picnic tables, and trash collection facilities; and

(15) other necessary activities and expenditures consistent with the good neighbor policy and the intent of 23-1-126, 23-1-128, and this section, including new trails, new boat ramps, and necessary new access roads into and within the state park or fishing access site.

Montana State Parks Division Budget Comparison

HB2 & HB5

Funding Difference is License Plate Fee

Past Budgets from Office of Budget Programming & Planning

2013 Biennium Budget from Governor's Proposed Budget

<u>Biennium Budget</u>	<u>HB2 – Operations</u>	<u>HB5 – Long Range Planning</u>	<u>Total</u>
2003	5,434,088 (note- 500,000 in HB5 for Lewis & Clark Bicent. Not incl.- funding source different)	4,309,650	9,743,738
2005	5,663,743 (note- 3,200,000 for Mt. Wildlife Rehab. & Nature Center Not incl. - funding source different)	3,550,000	9,213,743
2007	7,211,245 (note- a 52.6% increase over 2005 Biennium Total)	6,850,000	14,061,245
2009	8,042,393	7,750,000	15,792,393
2011	9,121,569	5,040,000	14,161,569
2013 Proposed	10,040,941	4,051,000	14,091,941

(note- 2013 Proposed Operations budget is 77.2% more than
the 2005 Budget).