

WRITTEN COMMENT IN SUPPORT OF SB 117

Mr. Chairman, members of the committee. For the record, my name is Rhoda Cargill. I am writing in support SB 117.

I am chairwoman of the Lincoln County Natural Resource Council. Our Council is advisory to the Glen Lake Irrigation District (GLID). GLID is a division of local government. It is mandated by state law to provide water to the irrigators of the Tobacco River Valley. GLID has actively coordinated with the U.S.F.S. and the U.S.F.W.S since 2008 and 2009, respectively.

The "Report to the 62nd Montana State Legislature For the State of Montana: Montana Coordination Act of 2011, submitted by Senator Greg Hinkle (SD7) is an excellent summary the coordination process. I refer you to that report for details of the process; how it is implemented, and what benefits a county could reasonably expect to receive from implementing coordination.

SB 117 mandates that cities, towns, counties, special districts and school districts implement coordination with federal agencies if their plan or policy is less restrictive than a federal plan or policy. If I am successful, by the end of this letter, you will understand why SB 117 is important to local government.

Coordination is conflict resolution. I am going to speak to GLID's application of the coordination process in Lincoln County and bring to light an on-going conflict in Eastern Montana, MATL, which is ripe for coordination.

GLID

Our volunteer council organized a diverse membership to write a Natural Resource Plan for Lincoln County. Aubyn Curtiss acted as an advisor during this process. The writing of the Natural Resource Plan required a year to research and complete. It was reviewed by a Constitutional scholar, the lawyer who first initiated coordination in Owyhee County, Idaho, Fred Kelly Grant.

In mid 2008, we submitted our Natural Resource Plan to Lincoln County commissioners and offered our voluntary services in its implementation. The commissioners rejected our offer and requested Communities for a Great Northwest (CGNW) to organize a group to write another Plan.

The Federal Land Policy and Management act states that local government and divisions of local government have the authority to implement coordination. In October, 2008 we approached the Chairman of the Board of GLID, Steve Curtiss, and explained the process and what benefits it could provide if the Board implemented coordination.

According to Mr. Curtiss, GLID was months from being unable to continue their lawful mandates by federal requirements and policy changes. His major complaint involved GLID not having a voice in the decision making process that determined these policies and regulations that ruled and mandated their management actions. We presented to the other members of GLID's Board the basis of coordination. At the end of that meeting, the Board Members were all in agreement that this approach, coordination, was worth trying.

In November, 2008, GLID mailed a letter to the Kootenai National Forest Supervisor to implement coordination. On December 3, 2008, the GLID Board held its first coordination meeting with Supervisor Bradford and District Ranger Betty Holder at the GLID office in Eureka, Montana.

In December, 2008, GLID mailed a letter to Mark Wilson, Field Supervisor, U.S. Fish and Wildlife Service implementing coordination with his Office. On Jan 7, 2009, the GLID Board held its first coordination meeting with Mr. Mark Wilson, at GLID's Office, in Eureka, Montana.

GLID is currently in coordination with both the U.S.F.S. and the U.S.F.W.S.

Success is measure by outcome. In 2008, Mr. Curtiss saw the "hand writing on the wall" and knew that the "life blood of the Tobacco River Valley", as GLID is referred to, was months away from being incapable of carrying out its lawful mandate. As of this date, I am very please to say, GLID is still functioning, fulfilling its legal mandates and the water continues to flow to its customers as it has for over one hundred years.

CGNW has yet to produce a Natural Resource Plan for Lincoln County, but progress is accelerating. They have taken GLID's Plan and are using it as a guiding document.

Coordination is a very effect conflict resolution platform *if* it is used. It gives local government the opportunity to be involved early and often in the planning processes of federal agencies that have impact on its ability to manage their respective counties. It is currently being used by over 40 different Counties, Cities and Special Districts throughout the nation. If outcome is a measure of success, then the coordination process is very effect in terms of enabling local government to resolve issues *before* they become an undue burden to the County , and therefore, to their constituents.

MATL

A Toronto-based company, Tonbridge Power, Inc. is trying to complete a 214-mile power transmission line from Great Falls to Lethbridge, Alberta. The projects name is the Montana Alberta Tie Line (MATL).

This project in Eastern Montana will contribute \$600,000 - \$800,000 annually to the counties through which the transmission lines travel. It would provide much needed living-wage jobs in those counties. It has the support of County Commissioners throughout its path. These lines are imperative for Montana ability to develop and become a leader in generating new alternative energy sources.

This project involved permitting at State and Federal levels. It also required a Presidential permit due to the transmission lines crossing into Canada. The very specific route MATL transmission lines would take from Great Fall to Lethbridge, Alberta was determined in the permitting process. The path would travel mainly through privately held agricultural lands.

Tonbridge sent out, admittedly, some heavy handed practitioners of persuasion," thugs" to acquire right-of-ways. Many landowners on both sides of the border were very resistant to giving right-of-

way. It is interesting to note that the majority of the landowners that resisted were not against MATL. To the contrary, they welcomed it. They were highly upset about having no voice in how the lines were going to run through their lands and the negative affect it would have on their operations. The chief complaint concerning the MATL pathway was diagonal crossings of the transmission lines of their property versus cardinal orientation (north to south) crossing.

This lack of responsiveness to their real concerns generated two different lawsuits; one in Canada and the other in Montana; both of which contributed to delays in completion of MATL.

Several County Commissions went to Helena to discuss the snails pace of the project. One county commissioner told a reporter that he had no authority to impact the project; that all the Commissioners could do was to make "noise".

In an effort to acquire the remaining rights-of-way it needed to complete the project, Tonbridge threatened to use eminent domain. This prompted landowners from the Montana side to file a lawsuit.

Hertha Lund, a Bozeman attorney, won her argument in Glacier County District Court on December 13, 2010 against the use of eminent domain by MATL. Glacier County District Judge Laurie McKinnon denied an attempt by MATL to take right-of-way, by eminent domain, from Shirley Salois of Cut Bank. "MATL does not possess the power of eminent domain, either express or implied, and it has no authority to take the private property of a non-consenting landowner." This ruling resulted in the birth of HB 198 on December 15, 2008.

This incredibly convoluted mess could have been avoided, in totality, IF the Commissioners of the counties in the path of MATL had implemented coordination. The process would have allowed for the issue of how the transmission lines cross agricultural property to be addressed prior to the issuing of the final permits.

The result of the lack of coordination between state and county has held up a project that will have great benefit to our environment through the development of alternative energy sources and to the financial stability of all counties in MATL's pathway.

Commissioners have the authority to do more then just make "noise".

I urge you to pass SB 117.

Sincerely,

Rhoda Cargill
146 Diamond T Trail
Troy, MT 59935
(406) 295-9472
hrcargill@frontiernet.net