

Kathryn QannaYahu
Enhancing Montana's Wildlife & Habitat
406-579-7748
513 ½ W. Curtiss St.
Bozeman, Montana 59715
www.emwh.org

7/3/2017

Dear Forest Service Chief Thomas Tidwell,

I have read through decades of long running, unresolved public access issues in the Crazy Mountains, in Sweet Grass County, MT. I began investigating the Crazy Mountains access concerns a few years ago. I founded Enhancing Montana's Wildlife & Habitat to deal with public trust issues. As a public trust advocate, I am thankful when the federal employees employed to administrate/manage OUR public trust, do just that, steward on my/our behalf. I have made contacts with a number of Federal employees over the years, in the course of this work, and was grateful for the professional work ethic exhibited by Yellowstone District Ranger Alex Sienkiewicz when I went to the Livingston office to get a map and make inquiries on access in the Crazy Mountain. I had heard about a Crazy Mountain access case, a few years back, from a public hunter from Lewistown, while I was involved in the BLM Durfee Hills/Wilks Brothers debacle. I am a very detail oriented person and Ranger Alex Sienkiewicz's attention to the law, to FS regulations, to historical facts and maps made me extremely thankful he was managing our public lands and access in the Crazy Mountains.

I was more than disappointed to learn of the recent removal of Alex Sienkiewicz, as the Yellowstone District Ranger, especially the false allegations made against him. I had placed a FS FOIA in the fall of 2016, as part of my ongoing research into the public access issues in the Crazy Mountains. A number of these documents provided pieces for a refutation to the special interest allegations against Sienkiewicz. I then contacted Brett French with the Billings Gazette, providing documents, who wrote an article, to reach a broader group of people than my almost 1000 subscribers. The public needs to know what is going on here.

The following is a statement by Custer Gallatin National Forest Supervisor Mary Erickson in that Billings Gazette article, [District ranger faces internal investigation over Crazy Mountain access dispute](#), June 19, 2017:

“The reassignment was made to 'create some separation between Alex as district ranger and allegations raised concerning access issues in the Crazies,' said Mary Erickson, forest supervisor.

Erickson said allegations from an assortment of landowners in the Big Timber area were 'raised to the level' of the Secretary of Agriculture, Sonny Perdue, and Sen. Steve Daines, R-Mont.”

The following are my refutations against the false allegations made against Alex Sienkiewicz as Yellowstone District Ranger, in the Livingstone office; as well as a PDF of supporting documentation from my FOIA and a few other documents.

Refutation 1. The PDF shows a string of communications beginning with a letter from the Montana Farm Bureau Federation on January 30, 2017 to Senator Steve Daines, making a false allegation that District Ranger Alex Sienkiewicz posted “this kind of statement on a private land access organization's website using his official title and authority”.

About four months later, Senator Daines (sits on the following subcommittees: Conservation, Forestry, and Natural Resources; Livestock, Marketing, and Agriculture Security; and Public Lands, Forests, and Mining) then wrote to USFS Chief Thomas Tidwell on May 26, 2017, one month after Sonny Perdue was sworn in as the new Secretary of Agriculture, including the MFBF communication (PDF page 3) and screenshot of the post in question from PLWA's Facebook page (PDF page 8). Sen. Daines carbon copied the Secretary of Agriculture Sonny Perdue and Region 1 Regional Forester Leanne Marten, addressing the attached message originating

from District Ranger Alex Sienkiewicz.

At no time has anyone contacted PLWA to investigate who the Facebook poster in question was. No due diligence has been exercised in this matter, yet the post is contributory to a public employee being removed from his position.

Alex Sienkiewicz did not post his Forest Service employee seasonal email on PLWA's Facebook site.

The attached PDF screenshot, taken while logged in as an administrator, shows the Public Land/Water Access Association Facebook page, from July 7, 2016 (referenced in the MFBF letter). Obviously, the post header was not from the Forest Service Facebook page, nor a "share" from an official Forest Service Facebook page; the header originated with PLWA.

Only a few authorized PLWA members may post content to PLWA's Facebook page, I was one of those. Former District Ranger Alex Sienkiewicz is not, nor has he ever been, an authorized poster for PLWA. While logged in as a PLWA administrator, you can see from the screenshot that the authorized poster, circled in red on the screenshot, was PLWA member Lee Gustafson.

The following pages show the originating email (PDF pgs. 9, 10): then Yellowstone District Ranger Alex Sienkiewicz emailed his staff with the yearly summer work message on June 28, 2016. On July 7, 2016, Lee Gustafson, copied all of Sienkiewicz's email text, posting the content to PLWA's account, but in a different order, – placing District Ranger Alex Sienkiewicz's closing contact information at the top of the PLWA post.

Contrary to the Montana Farm Bureau Federation's question to Sen. Daines on Jan. 30, 2017, "Is it proper for Mr. Sienkiewicz to post this kind of statement on a private land access organization's website using his official title and authority?", it is neither PLWA's website, but a social media platform they do not own (it is part of my independent contract work to deal with social media platforms and internet technology for a number of conservation hunting/angling groups in Montana); nor did District Ranger Sienkiewicz post it or have the authorization to post it.

Additionally, per my FOIA documents, this yearly reminder was sent previous years to Forest Service employees:

July 11, 2013, "Gang – I am again emphasizing to the District that no one should be signing in to access Sweet Grass Creek or other sites on the District. With the one exception of Cherry Creek – which is close to being 'resolved' (i.e. clarified as to legal rights...) You should not be signing in ANYWHERE to access NFS lands. Furthermore, the PUBLIC should not be signing in to access YRD-NFS lands either. Please ignore any existing or new sign-in-stations at traditional NFS access sites. These are deliberate efforts by private individuals to extinguish public rights. I am CC-ing the FLT as an FYI. I am happy to provide my business cards and or letters for any USFS personnel carry should landowners request that one sign in." (PDF pg. 10)

July 24, 2014, "Dear Colleagues, Attached is a photo of the sign at one of the gates at the Carrocia property along Sweetgrass Creek Road (Chuck Rein call this Road Rein Road). This road runs west of Melville and passes through the Rein and Carrocia properties. I was there on Monday. I was able to drive through all gates and access the forest without encountering anyone. Come elk hunting season, however, all of these gates will be locked in order to keep the public from hunting the national forest. In the past, there was a Forest Service trailhead kiosk which they ripped down. This is still demarcated on older USFS maps. (PDF pg. 11)

I am herein emphasizing AS I DO EVERY YEAR that you DO NOT SIGN IN to access the National Forest as the sign demands. Never. As the legalese in the sign indicates, this is a deliberate effort upon advice of their attorneys to extinguish public access rights based on a 100 year history of use, maintenance, and historic access that is now 'adverse' (adversarial).

Obviously, if you encounter conflict, just turn around and leave. But if anyone asks, please note the agency's position that there is indeed legal access. Please refer all questions to me. Again, your own safety takes priority over your work, so please, walk away from prescriptive conflicts."

Refutation 2. To address the following questions brought up in the MFBF, Landowners and Daines letters:

- Questions brought up at the January 2016 MOGA meeting (PDF pg. 3)
 - the Montana Farm Bureau Federation - Is it now the policy of the National Forest Service to abandon negotiating access to Forest Service property and proceed to encouraging trespassing in order to gain prescriptive easements? Does Mr. Sienkiewicz statement reflect the policy of the U.S. Forest Service? (PDF pg. 3)
 - Landowners Open Letter to the Secretary of Agriculture & Sen. Daines - We would request that you use the full power and authority of your offices to investigate and determine whether the FS Ranger has been acting in congruence with FS policy and his job duties when he has been instigating conflict and encouraging criminal actions by members of the public against private property owners in order to try to establish public access across private land. (PDF pg. 5)
2. If an access point is disputed, what are USFS management guidelines for continued engagement with landowners and the public? (PDF pg. 2)
 3. Is the attached message a proper reflection of USFS policy concerning unresolved access points with private landowners?(PDF pg. 2)

EMWH submits the following quotes from the USDA USFS Gallatin National Forest, August 2002 Briefing Paper on National Forest System Trails across Private Land from my FOIA (13-16 PDF pages following Sienkiewicz email, text in bold is by the Forest Service):

“The growing demand for dispersed recreation on public lands, and the changes and trends in private landownership, have brought considerable attention to the trails issue on this Forest. At an increasing rate, landowners are questioning the status of trails across private land. Private land within and adjacent to this Forest continues to be sold. New owners may or may not recognize the existing public access through their lands. Some trails on private land are being lost through subdivision, closure or obliteration.

As a result, it is critical for the Gallatin NF to continue to have a strong and consistent policy and presence in: (a) signing and maintaining our trail system across private lands; (b) defending historic trail access rights if challenged; and (c) perfecting trail access rights across private lands whenever that opportunity exists.”

In the Direction and Policy section they wrote, “Under FLPMA and FSM 5460 direction...**In situation where an existing NFS trail crosses private lands, and no deeded easement exist, the Forest Service position is as follows: The United States has acquired a right-of-way from the trail through development, maintenance and continuous use of the trail. As a matter of law, the Forest Service believes that there is a public access easement for the trail. The Forest Service is a beneficiary of this public right of access, will continue its efforts to defend the public’s right of access.**

(1) Protect and maintain historic evidence, including trail blazes, signs, maps, photos and maintenance records.

**(2) Maintain and sign the trail on a regular basis, and keep records and photos of this maintenance, and
(3) Take prompt action in the event that landowners threaten or take action to close or obliterate the trail.”**

Additionally, the **USFS's Rights by Prescription/Protecting United States Interests** document, providing the process for prescription, including establishing documented historical use, maintenance records, maps, photographs, records and plats, trail logs, etc. These steps Yellowstone District Ranger Sienkiewicz was upholding, not just from my FOIA documentation, but witnessed in my own research gathering on the Crazyes.

Refutation 3. To refute the implication that Alex Sienkiewicz (Ranger from 2011 to 2017) was somehow rogue, managing contrary to other Forest Service public trust steward in his direction to not seek landowner's permission or sign in, the following citations are from previous years Forest Service supervisors, the OGC (Office of General Council), Custer Gallatin National Forest Supervisor Mary Erickson and a FS Law Enforcement Officer directing no permission or signing in from my EMWH FOIA documents:

- FS Documentation Overview of Sweet Grass Access to NFS Lands, 4/23/02: “**Summer 2000:** District Resource Assistant attempts to enter Sweet Grass through the Carroccias on the trail/road. Assistant was stopped at the gate by Pat Dringman and passage refused until the US personnel signed in. After discussing the situation with Page and Pat Dringman for a couple hours, and because the Forest had been closed and was in extreme fire danger, the FS employee consented to sign in. After discussing this situation with Forest Lands Staff and OGC (Office of General Council), OGC advised the District not to sign in. **6/2001:** D-1 seasonal employees refuse to sign in at Carroccia Ranch (OGC had advised us not to sign in). These employees were threatened with arrest for criminal trespass. One employee was 'banned forever' by Page Carroccia from going up Sweetgrass. They were just doing what they were told by their supervisor.” (PDF pg. 17)
- Employee or volunteer written note of incident with Page Carroccia: “On **6/18/01**, Myself (Donelle Lovely) and Kris Norris parked our vehicle at the trailhead of Sweet Grass Creek. We did not stop and talk to the landowners; as per directions from our supervisors.” (PDF pg. 18)
- **August 22, 2016** meeting notes from Yellowstone District Ranger Alex Sienkiewicz and Custer Gallatin National Forest Supervisor Mary Erickson with Montana Outfitters and Guides Association leaders Chuck Rein and Mac Minard: “Both Mac Minard and Chuck Rein asked Mary Erickson if she agreed with my (Alex's) position regarding never signing-in and never asking permission of private landowners at traditional forest access point, and Mary stated that she did support this position.” (PDF pg. 20)
- **October 26, 2015**, Law Enforcement Officer Shawn Tripp, in reference to members of the public calling about hunting, “Please provide anyone with questions or comments on the Crazy Mtn North Ranger – Trail 136 to me and Alex. And don't refer folks to the landowner for permission.” (PDF pg. 21).

Additionally, I received a copy of Rep. Pete Sessions (R-TX) letter, sent June 7, 2017 to Secretary of Agriculture Sonny Purdue and CCing Secretary of Interior Ryan Zinke. Again, the excuse of a false Sienkiewicz PLWA Facebook post is brought up, which he included, yet did not investigate before sending on in an official capacity. He also brings up the same charge as the other groups of Sienkiewicz statements, refuted above. This is used as a Trojan Horse to really go after prescriptive easements and Statements of Interest. Rep. Sessions suggests meeting with Sec. Purdue and pursuing legislation to such an effect. This is a “taking” of the public's historical access and the Federal agencies abilities to properly manage our public lands and resources on our behalf.

Under Montana law, the elements of a prescriptive easement claim are open, notorious, exclusive, adverse, continuous, and uninterrupted use for the statutory period. The public, in a variety of ways, has been utilizing trails and roads throughout the Crazy Mountains for over a 100 years. A USFS Statement of Interest would assert that it has and claims easements for the National Forest Trails over and across real property on the public's behalf, due to public usage preceding the majority of the private property owners who are now trying to block access.

Sessions also alleges that USFS Region 1 went rogue during the Obama administration, calling it a "war on private property owners conducted by the Obama administration". This is simply a dog whistle, having nothing to do with Obama or his administration.

Enhancing Montana's Wildlife & Habitat Forest Service FOIA documents ([1](#), [2](#), [3](#)) show that prescriptive easements and Statements of Interest have been used by our Federal land agencies for decades, well before Obama became President in 2008.

For more information on what I think is really driving Rep. Session's agenda, involving Monzer Hourani (Land owner in the Crazy Mountains) and Sen. Orrin Hatch, please see the research, including financial contributions, I have been doing, <http://www.emwh.org/public%20access/Crazy%20Mountains/Texas%20Representative%20Pete%20Sessions%20Letter%20to%20Secretary%20of%20Agriculture%20Sonny%20Purdue.pdf>

The Crazy Mountains in Montana have been a public access hotbed, beginning in 1940. As then Forest Service Supervisor G. E. Martin writes (from my FOIA documents) detailing the variety of public uses documented in the historic Crazy Mountains, including mining, timber, grazing, trappers, hunters and recreation, "At no time was travel over the roads and trails restricted until October 1940 when Van Cleve locked the gate during the hunting season. In 1941 this was done again. In 1942 the gate was again locked before the opening of the hunting season and was still locked on April 24, 1943."

I have read repeatedly, where certain privatizing landowners kept pushing the boundaries, threatening lawsuits, chipping away at our public access and the Forest Service, repeatedly, tried to play nice with these landowners only for the public to lose bit by bit, more access in the process. Perhaps some of the attorneys calling are correct, it may be time for litigation.

I believe the Forest Service should treat FS employee Alex Sienkiewicz with the respect he deserves, especially befitting his position and his service to the Forest Service, especially in light of the evidence against the erroneous claims certain special interest groups have made against him. His management was consistent with existing Forest Service and Office of General Council policy direction, as well as that of other FS employees. Sienkiewicz should be reinstated to his District Ranger position as soon as possible, allowing him to continue his work within the community, which includes protecting public access to our National Forests.

Thank you,

Kathryn QannaYahu
Enhancing Montana's Wildlife & Habitat
406-579-7748
513 ½ W. Curtiss St.
Bozeman, Montana 59715

Please see online [PDF Refutation Documents](#) referenced for higher resolution.

<https://www.emwh.org/public%20access/Crazy%20Mountains/Sienkiewicz/EMWH%20Refutation%20Docs%20for%20Alex%20Sienkiewicz.pdf>

--

