

Enhancing Montana's Wildlife & Habitat

Newsletter

Putting the "Public" Back in "Public Trust"

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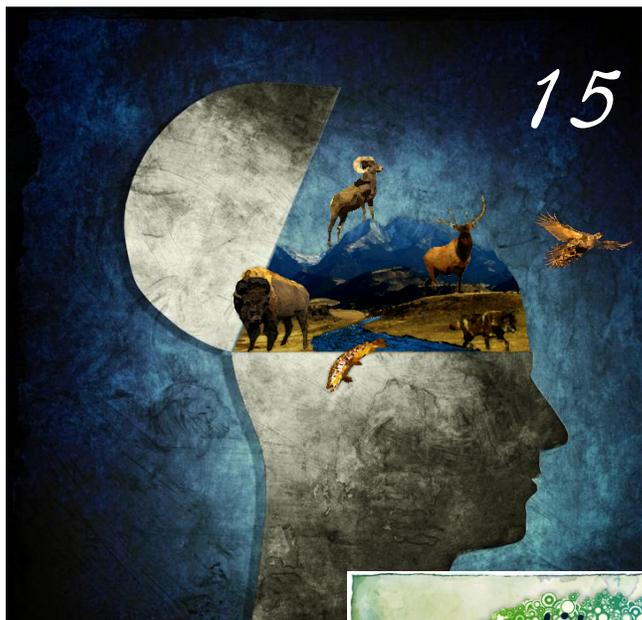
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Content Submission

To submit any of the following for possible inclusion, or to place an advertisement in the EMWH Newsletter, call Kathryn at 406-579-7748 or email kathryn@emwh.org

- original editorials or articles
- events or meetings for the calendar
- public comments that will be due
- academic papers or reports

Appreciation

I would like to thank the following contributors: Tim Crawford, Dale Spartas, James McGehee, Kenny Stillwell, JW Westman, Joe Perry, Steve Schindler, Glenn Elison, Outside Bozeman, Dr. Bill Mealer, and some anonymous conservation hunters/anglers.

September

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
	<p>Big Game, Big Stories: Montana's Hunting Heritage Montana Historical Society New Exhibit The exhibit will be in place for a year. 225 N. Roberts, Helena, MT Map & Directions</p>		7	8	9	10
11			12	13	14	15
		<p>Skyline Sportsmen's Assn. Mtg. 6:30 PM</p> <p> </p>	<p>Environmental Quality Council mtg. 9 AM-5PM Helena</p>	<p>Environmental Quality Council mtg. 8AM-12PM Helena</p>		
18	19	<p>Russell Country Sportsmen's Assn. 7:00 PM FWP Bldg. Great Falls</p> <p> </p>	21	22	23	24
25	26	<p>RCSA Presentation Guest APR 6:30-7:30 PM Great Falls</p> <p> </p>	28	29	30	
		<p>Click on  for additional information & the  for a map.</p> <p>If you would like to submit a meeting or event for possible inclusion on the calendar, please email kathryn@emwh.org or call 406-579-7748 with details.</p>				
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October

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
		Dr. Bruce Smith 7:00 PM Stories From Afield Bozeman  	Laurel Rod & Gun Club Mtg. 7:30 PM Laurel  	Helena Hunters & Anglers Mtg. 6 PM Montana Wild Helena  		
9	10	11	12	13	14	15
		Skyline Sportsmen's Assn. Mtg. 6:30 PM Butte  		FWP Commission Forsyth, MT Check for upcoming agenda		
16	17	18	19	20	21	22
23	24	25	26	27	28	29
				Central Montana Outdoors 7:00 PM Yogo Inn Lewistown 406-350-0173  		
30	31	<p>Click on  for additional information & the  for a map.</p> <p>If you would like to submit a meeting or event for possible inclusion on the calendar, please email kathryn@emwh.org or call 406-579-7748 with details.</p> <p>Enhancing Montana's Wildlife & Habitat www.EMWH.org</p>				

Welcome to the new EMWH Newsletter.

Ever have one of those weeks where you wished the world would just stop spinning so you could get some work done? I have just had a month like that, conservation never stops. While a little overdue, lots of graphics had to be specifically created, multiple templates and four new software programs to work with (still working on some flash issues with the embedded video, audio and calendar expanded information popup windows, so bear with me), here is the new digital EMWH Newsletter. There are still some elements that will be rolled out in the next few issues.

I will be processing the Larry Jent for Attorney General interview this week and sent out.

Subscription information and pricing for future issues is just inside the cover. If you have recently contributed and would like that to apply towards your subscription, I am down with that. Have any suggestions for the digital EMWH Newsletter? Please call or email to let me know your thoughts. 579-7748 or kathryn@emwh.org And welcome to the 3 new subscribers from Wisconsin enjoying Montana's hunting and fishing, it was nice meeting you. This is what it is all about, because the public trust that is good for Montana is good everywhere! That is why some are now calling the North American Model the "Montana Model".



A number of our American forefathers, such as Franklin, Paine and Jefferson rejected the tyrannical, closed government decision making process, instead they promoted an open government, which now provides us with "public comments".

Yes, we all have busy lives and precious little time, but Public Comments are not a waste of time! They are an opportunity for you, as a stakeholder, to be heard, to provide input, to state your values. As a stakeholder, you have an investment to defend.

To submit a Public Comment Due item, email kathryn@emwh.org

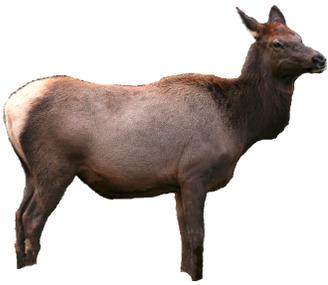
Be Heard!

Thank you to those that took the time to quickly express your wildlife values, contacting the FWP Commissioners, Aug. 11, to object to the elk brucellosis workplan section of elk hazing within the DSA, down here in Region 3. Originally, Commissioner Vermillion motioned to pass it and take it to the public, then amended his motion to strike the new DSA elk hazing section of the proposed work plan. That amendment was passed unanimously. While the whole of the workplan sucks, this killing of elk to keep them from exiting the DSA was appalling and unscientific. All the commissioners were awesome, with well reasoned discussions, upholding what FWP is supposed to be about. This is an example of Public Comments working.



[Brucellosis 2016 Work Plan discussion](#)

24:49 Commissioner Vermillion motions to approve for public comment, stating they could have a modification to that motion. Commissioner Stucker seconds, saying it is to make it open for discussion purposes (he had already expressed concerns with this proposal).



25:46 begins the public comments, opening with Dr. Marty Zaluski, the DOL MT State vet. Nick Gevock for Montana Wildlife Federation said they could not support it in this form. Rod Bullis spoke for Helena Hunters and Anglers, vehemently opposed. I drove to Helena to speak on the science and fiscal realities, showing an 8.5x11 photo of an edited cow elk (I edited off the surveillance collar) and challenged all the vets in the room, the wildlife biologists and the commission to hazard a guess if that elk was the antibody seropositive one or the brucellosis antibody free one? There is no way anyone could know, you can't tell by looking at them. BTW, the only way to get a 100% antibody free one, unless I was on sight when they were testing, was to get one from the zoo.

Harold Johns and Leroy Mehring of Butte's Skyline Sportsmens Association came to Helena to adamantly oppose this proposal. Harold had called Helena for the brucellosis working group meeting minutes when I told him it was DOL's Dr. Eric Liska that proposed the DSA elk hazing killings. He brought that up as part of his public comments, stating that he was told they weren't available. The Commissioners told Harold he would get them. After the meeting Quentin Kujula told us they were hand written and needed to be typed up. It is a month later and we still don't have the minutes, minutes that are legally required to be taken at meetings and legally provided to the public when they request them. GWA commented against the proposal from Region 3. Due to technical difficulties, the public at the Region 4 office did not get to be heard.

Temporary Hyalite Target Shooting Prohibition Permanent Proposal

[Public Comment Sought on Making Temporary Hyalite Target Shooting Prohibition Permanent](#)

I am in support of the closure, begrudgingly. I recognize the conflict here, the safety issues and vandalism aspect, hating that some users don't respect our public lands, causing the conflict, whether it be recreational shooting, mountain biking, atvs, etc. This restriction does not apply to hunting. There are shooting ranges in Logan and Livingston.

In April of this year, the Custer Gallatin National Forest issued a special order temporarily prohibiting discharge of a firearm, air rifle, or gas gun for the purpose of target shooting within the Hyalite drainage south of Bozeman, Montana. The Forest Service is now proposing to make this prohibition permanent and is seeking public comment. The temporary restriction remains in place until an environmental analysis process is complete and a decision is reached, likely January 2017...

The primary purpose of the temporary target shooting restriction was to address public safety issues. The Hyalite drainage receives more than 40,000 visitors monthly in the summer and over 20,000 visitors monthly in the winter. It is the most heavily recreated drainage on National Forest System lands in the state of Montana. It is a narrow glaciated valley with a huge number of developed and dispersed recreation sites, 65 miles of road and about 70 miles of trail. The density of development and volume of recreationists make it unsafe to target shoot. Target shooting is defined as any shooting **other than in pursuit of game** and includes paint ball guns.

"We recognize the real safety issues and concerns resulting from the large amount of target shooting in this drainage," said Lisa Stoeffler, Bozeman District Ranger. "Since the temporary closure of the drainage in April to target shooting the Forest and Friends of Hyalite have been working to clean up the tons of trash from these shooting areas and to listen to interested and concerned organizations and individuals."

A broader, county-wide planning effort for target shooting may occur in the future and is not part of this proposal. Alternatives that address target shooting opportunities and/or restrictions on other national forest lands are not being considered at this time. **The proposed restriction does not limit the ability to carry or possess a legal firearm within the Hyalite drainage.**

Comments will be accepted until **September 19, 2016** and can be mailed Gallatin National Forest, attn: Steve Christiansen, P.O. Box 130, Bozeman, MT 59771. Electronic comments can be emailed to comments-northern@fs.fed.us, enter the phrase "Hyalite Shooting Restriction" in the subject line. Comments may also be faxed to (406) 587-6758. If you have questions please contact Steve Christiansen at (406) 587-6701 or Lisa Stoeffler, Bozeman District Ranger, at (406) 522-2520.

EMWH Newsletter

CONSERVATION NEWS

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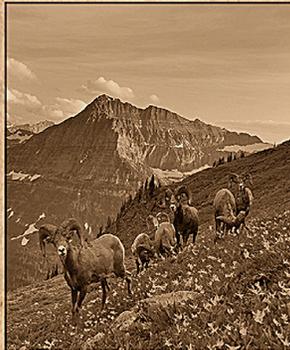
Montana Model or Texas Model?

The North American Model of Wildlife Conservation, what some are calling the "Montana Model" of Wildlife Conservation is under attack by privatizers, what Roosevelt called, "selfish men or greedy interests".



"I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that come after us." - President Theodore Roosevelt

Fire: Conservation Friend or Foe?



Judge Dismisses FWP Game Warden Investigation of Governor Appointee to the Board of Outfitters

Receiving a call to verify if there were actually any citations against Board of Outfitters & Montana Outfitters & Guides president elect, Patrick Tabor, I found more than the citations, I found a continuing of the same issues in Lake County justice system that were occurring several years ago that caused a scandal-

To serve and deflect article

State Investigator describes resistance, all eyes tampering among Lake County law officials article

[Here are the Citations issued that I requested from the Lake County Justice Court](#)

These are not all the "violations" for Patrick Tabor that were found, the warden said. I called the Lake County attorney's office to see about getting the case reports for the citations, I left numerous messages.

There are a number of reasons for pursuing this, most stem from our wardens and other LE being able to do their job. Without access to these kinds of reports, it would seriously hamstring them. Currently, law requires them to submit client logs. On March 1,2, 2016, the Board of Outfitters met in Helena, Tabor is appointed to this board. [MOGA reported on the meeting](#), of which Tabor is President elect. At the bottom of the page, concerning future legislation:

"Remove the requirement to submit client logs – This will require statutory change. Outfitters will be required to retain and provide logs if audited, you would just not have to submit them to the Board. We see this as a very significant cost savings as all the logs being submitted now must be scanned and filed. The counter is that these logs MAY help some outfitters faced with allocative decisions on some waterways. That is not likely simply because of the manner in which the data is collected retained and the cost of mining that data to verify past use. We are committed to getting this law amended."

As a retired FWP game warden explained it, currently

those records are public information, which they need to investigate. They can gain access to public records without tipping off who they are investigating, sometimes investigations take years. But if outfitters are not required to submit records, the records are private property; a warden or other LE would have to subpoena them, which would give a heads up to the outfitter they were being investigated. Additionally, with the pattern of county attorneys dismissing cases, it makes outfitter laws pretty toothless.

I spoke with the DNRC office in that area, they said they did not renew Tabors commercial use license because of the issues. Tabors subcontractor did not have a commercial use license with DNRC for each of the events. The cost for commercial licenses is based on a set fee or 5% of gross earnings if larger, based on records, but if they don't have to report, how are you going to know if the money collected by DNRC for school trust, is even accurate?

I called FS District Rangers office in that area to see if they had any violations by Tabor. I have not heard back from the LE yet, but was told that there had been a number of complaints against him. When I asked if they were from landowners, other outfitters, the public or other agencies, I was told I would have to put a FOIA in for that information, which I did. I also put in a request with Department of Labor & Industry, Compliance for statistics on outfitter/guide complaints, to see if there was any foundation to the statement that they received the most complaints than any

foundation to the statement that they received the most complaints than any other licensed occupation, or if that was just bs. I put a Public Information request in to FWP for 5 years of statistics on how many citations have been issued, how many dismissed, how many convicted, per year, per region to see if there is a pattern in certain areas of dismissals. I put a request with the State AG for any requests for intervention to prosecute FWP citations.

These are some of the concerns I have with our sportsmen's dollars, FWP enforcement being able to do their job properly, protecting the resource, and the accountability/transparency aspect.

Here is a link to the [Department of Labor & Industry report for FYs 12 & 13](#) someone sent to show that outfitters did not have more complaints than any other industry. Yes and no.

PDF pages 9 and 10 show the 2 years listing the occupations and various data columns. While outfitters had 63 complaints in 2012 to nursing's 161; and 55 to 159 in 2013, you can't just compare straight numbers. Nursing has about **10X** more licenses than outfitters.

2012: Nursing licenses 19,374, 161 complaints for .83%.
Outfitters 1,876 licenses, 63 complaints for **3.35%**.

2013: Nursing licenses 19,319. 159 complaints for .82%.
Outfitters 2,050 licenses, 55 complaints for **2.68%**.

The Board of Outfitters just met on August 26th, delaying the legislative discussion of outfitter records reporting to their December meeting.

In my mind, a president of an organization, an appointee to a governor appointed board, should hold themselves to a high ethical standard, and accountability of the law. Getting rid of record reporting not only hurts our FWP law enforcement, but can also harm our public trust resources, which outfitters and guides profit from.

I am not against general outfitting and guiding, knowing a number of ethical outfitters and guides, but I believe in accountability and transparency. As soon as I get the requested documentation, I will make it available. This is not a discussion that should be swept under the rug, it is a discussion that needs more light shown on it.

Immediate harm to Montana's citizens [The Tenderfoot Road Victory](#)

Immediate harm to Montana's citizens who seek to hunt, fish, and recreate on public lands...



Thankfully, in 2012, Montana Attorney General Steve Bullock utilized something little known by the public who votes for our attorney generals – a Montana law that not only gives an Attorney General the right, but the duty to act on behalf of the citizens of Montana. Bullock filed a Complaint for Declaratory and Injunctive Relief on October 12, 2012 against Howard Zehntner and Zehntner Brothers, LLC. As a result, the State of Montana just won an important access case and the public now has guaranteed public access on Tenderfoot Road, which leads to public State DNRC and US Forest Service lands in the Little Belt Mountains, including the Tenderfoot Legacy Project, known as the Tenderfoot Creek Area Land Acquisition, which placed more than 8,200 acres of private ranch land into public ownership.

The Montana law that AG Bullock referenced in his introduction, giving him not only the right, but the duty to act, was MCA 2-15-501 (6), which states, “when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of the county attorney's duties or to prosecute or defend appropriate cases in which the state or any officer of the state in the officer's official capacity is a party or in which the state has an interest.”

[Read More...](#)

The Tenderfoot Road opens the southern part of the Little Belt Mountains back up to public hunting recreation again.

Wealthy Montana Republican threatens lawsuit against rival for exposing his love for oligarchy

“Robert Saunders, who is challenging state Rep. Jessica Karjala (D-Billings) for Montana’s 48th District seat, sent a cease-and-desist letter to the incumbent lawmaker over a comment she says he made online, reported Last Best News...”

'The Founding Fathers thought so,' Saunders said. 'Our form of government was designed so that only people with a stake in the country's future could vote. In the early days, this meant that only people who owned property could vote – just like today, in business, only shareholders in the company can vote.'

'Likewise, only people who owned property could run for public office. Know why?' Saunders continued. 'Because the Founders (rightly) believed that the people with the most to lose would be the least likely to screw up. People with money have the time and opportunity to educate themselves and a vested interest in doing so. Transients, college kids, and others without a dollar to their name have nothing to lose and are thus extremely unsafe custodians of power, being more likely to "experiment," often with catastrophic results.'

'That's why people think it's a good thing that our leadership is generally relatively wealthy,' Saunders said. 'Life under the leadership of people with lots to lose – while certainly not perfect – has always been proven to be better than life under people with nothing to lose. Order, stability, and the rule of law is definitely preferable to the alternative.' "

[Read More...](#)

Columbia Falls Aluminum site added to Superfund list

"The former Columbia Falls Aluminum Co. plant will be added to the federal Superfund list on Friday, renewing momentum to clean up decades of industrial waste along the Flathead River...

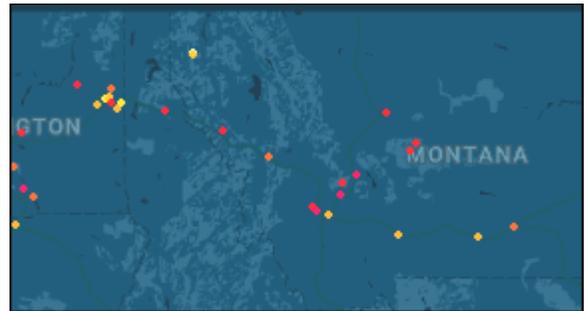
'The addition of the Columbia Falls Aluminum Company site to the National Priorities List will ensure the comprehensive investigation and cleanup of contaminants and help secure future opportunities for the reuse of this prominent property along the Flathead River,' EPA Region 8 Administrator Shaun McGrath wrote in an email Wednesday. 'EPA's action is based on a thorough review of site data and input from the local community...'

Sen Jon Tester, 'Glencore can no longer try and turn their back on families in Columbia Falls', Tester wrote in an email. 'This decision guarantees that after seven years of broken promises and stonewalling, Glencore will finally be held accountable for the cleanup of CFAC. Today is a step in the right direction and I will continue to work with folks in Columbia Falls so we can strengthen the local economy, revitalize this site, and create jobs.'

Former CFAC workers Keith Haverfield and Mike Shepherd also backed the move.

'I am for CFAC becoming a Superfund site because after the 36-plus years working there, I saw a lot of materials dumped and buried on the site,' Haverfield said in a statement provided by Tester. 'The site needs to be cleaned up properly and professionally. I also believe that Glencore should be responsible for the costs because they knew what they were getting from day one when purchasing the plant.' "

[Read More...](#)



[Superfund Toxic Sites Map](#) with details, now there will be another dot in Montana.

Liability issues may delay Parrot tailings removal

"The latest snafu over the Parrot tailings waste removal could prevent 'shovels moving dirt' this year.

The plan to move Parrot tailings waste to Montana Resources' leach pad has fallen through, say officials with MR. Liability issues related to Superfund regulations were blamed for the change in plans.

Natural Resource Damage Program director Harley Harris called the latest twist in the state's effort to remove the Parrot tailings a setback.' Harris said he doesn't know if the state can start moving dirt this by this fall, as was previously planned.

The Parrot waste — and its removal — has been a contentious issue for at least a decade. The Environmental Protection Agency says the 50-foot-deep deposit of tailings — which is smelter waste — does not need to be excavated. The state says that by not removing the source of pollution, located behind the Civic Center, Silver Bow Creek will be under threat of recontamination for years to come.

Democratic Gov. Steve Bullock ordered to have the bulk of the Parrot tailings removed last year. The state has set aside \$18.5 million for the project.

Bullock said last year he wanted 'shovels moving dirt' by this summer, but repeated obstacles have delayed the project. Several sites to which Butte-Silver Bow planned to move its vehicle and maintenance shops fell through for various reasons, including public outcry, and no site has yet been selected."

[Read More...](#)

Outfitter challenges Beaverhead, Big Hole guiding rules

"A Bozeman fishing outfitter has launched a one-man war against what he sees as an unfair system for controlling guided traffic on the Big Hole and Beaverhead rivers.

Collim Brown is challenging a system that was enacted in 1999 to address crowding concerns and which he says has now created a monopoly for the outfitters who have secured annual permits to guide on the Big Hole and Beaverhead rivers in southwest Montana.

'I filed a formal complaint this year and nothing got to the (Fish and Wildlife) Commission,' said Brown, owner of Montana's Last Best Outfitters. 'I decided I needed to do something.'

Brown's concerns have been amplified by Montana Fish, Wildlife and Parks' recent move to address angler crowding on the Madison River, where he fears what's known as the BH2 rules may be duplicated. FWP will soon begin writing an environmental assessment for the Madison.

'I don't want to see people get certain advantages on the rivers,' he said. 'The rules on BH2 are so outrageous I'm worried they may do this to all of the rivers.'

[Read More...](#)

FWP Upper Madison River Strategy Meeting – Aug. 29, Bozeman

I attended the meeting where FWP stated it was well past time for this discussion/conversation. We were broken

into groups to address two sections of the Upper Madison, then FWP group leaders presented the distilled opinions expressed by each group.

1. From the Lyon Bridge to Ennis - Because of concerns about congestion, crowding, and social conflict, have we come to a point in time where there is a need for FWP to regulate when and where the public or river service providers can recreate on this stretch of the river? If yes, why? If no, why not?

There were a variety of positions towards regulation, most were in agreement that things have changed, there is more use, creating conflicts, and mixed opinions of whether or not this needed regulation or some form of public awareness to self regulate conflicts. Parking was one repeated issue, as well as more activity on the water, from floaters and boaters. One thing I asked in our group, which was mirrored in the others, was a request for data, has FWP been collecting data to ascertain use, by what user groups, what times of year, what times of day?

2. Hebgen Dam to Lyon Bridge (where fishing from a boat is currently prohibited)... Because of concerns about congestion, crowding, and social conflict, have we come to a point in time where there is a need for FWP to regulate when and where the public or river service providers can recreate on this stretch of the river, or the types of recreation that are allowed on this stretch of the river? If yes, why? If no, why not?

While there was less conflict in this area, some commenters stated the no fishing from boats was being ignored, that boats were interfering with the waders. One person stated, and was confirmed by some others, that there is conflict with the landowners in this area, some fencing to the water or harassing the public. Concern was expressed over the river being broken up by sections, believing it needed to be managed as a whole.

Sam Shepard said they were incorporating the comments from the process a few years ago, not starting from scratch. They were looking at MEPA and MAPA, a potential EA possibly by November or later. They could use the River Management Act process or rule making.

Shannon Taylor and I signed up for data to be sent to us.

One of my concerns about this process, which I expressed in the '15 and forward meeting, is that this process tends towards intentional homogenization.



Dale C. Spartas
Spartasphoto.com

In a previous book: *American Plains Bison: Rewilding and Icon*, Bailey pondered the issue of domestic vs. wild. He concludes wildness is more than a mere romantic notion, and provides a definition of wildness based on population genetics and evolutionary biology. Degree of wildness depends upon the preponderance of natural selection – a criterion that is measurable and operational in the practice of wildlife management.

Bailey contends wildness may be the most ignored characteristic of wildlife, unrecognized in most wildlife law, and little considered in much wildlife management. With an emphasis on large mammals, he notes twelve categories of common management practices that weaken or replace natural selection.

Bailey intends to communicate an academic topic to most owners of American wildlife – anyone who has had one good biology class. He discusses the sources of genetic diversity in wildlife populations and the selective and random processes that may alter population genetics. He then illustrates these interactions, noting how natural selection for wildness may be replaced or weakened, especially in populations that are not large or do not exist in large, diverse habitats. Bailey concludes with a plea for more and better examples of wildness amongst the increasingly domesticated environments of North America.

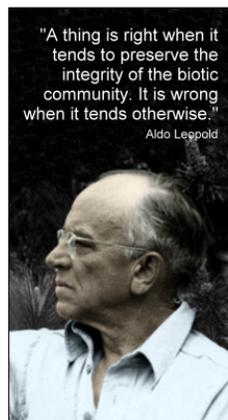
Jim Bailey was professor of wildlife biology at Colorado State University for 20 years. His first book was *Principles of Wildlife Management*. His recent book on *American Plains Bison* led to a reassessment of wildlife management's influences upon wildness in large mammals – ideas explored more fully in *The Essence of Wildness*.

The Essence of Wildness Lessons from Bison



James A. Bailey

[Click to Purchase at Amazon.com \\$9.95](#)



Retrospective, personal views of wildlife management and related issues, based on five decades of experience.

Science for the Openminded



If you are closedminded about science, statistics or reports, or like the banditos of the Sierra Madres believe, **“We don't need no stinkin' science,”** save yourself some time and skip this section, it will probably freak you out or cause cognitive dissonance.

I'm a believer that **science helps keep us honest!** I believe in the Public Trust Doctrine and the North American Model of Wildlife Conservation (what some are beginning to call the Montana Model, since not all of the states subscribe to the Public Trust Doctrine). As such, I prefer science over special interest politics for fish/wildlife & habitat management.

Knowing that all “science” is not created equal, some being cherry picked or pseudo/faux science, I search for the best available science to repel bullsh*t. Best available science is a process that meets the criteria of relevance, inclusiveness, objectivity, transparency, timelessness, peer review and is consistent with the scientific process.

Fish Deaths in Montana's Yellowstone River Tied to Warming Waters

After reading a number of Montana articles on the Yellowstone River fish deaths, all citing warming waters, climate change, etc., I noticed none of them addressed another factor to the warming waters and resulting fish deaths – agriculture irrigation lowering water levels, contributing to the warming – not a politically correct subject in Montana. I made the comment on Montana's subreddit, because this issue needs to be addressed, it is not going away. Thankfully, an out of state article addressed the science and our future.

BTW, for years, Joe Gutkoski, a Bozeman conservation hunter and angler, has led efforts to try and get a legislator to sponsor a bill for instream flow, to protect our water and its resources. This not only affects our waterways and resources, but one of the two largest economies here in Montana – outdoor recreation!

“An outbreak of fish-killing disease along a 100-mile stretch of the Yellowstone River in Montana may be the latest sign that mountain stream ecosystems are being disrupted by climate change. Scientists point to warmer,

lower rivers as a likely cause of the mass fish mortality.

Since Aug. 12, the Montana Department of Fish, Wildlife and Parks has counted 4,000 dead mountain whitefish, along with smaller numbers of rainbow trout, Yellowstone cutthroat, longnose suckers, sculpin and longnose dace. The agency estimate that tens of thousands of fish may be dead and they closed the segment to recreation to reduce impacts to fish. This is happening along a river that's an economic mainstay for nearby communities and thought of as a relatively healthy, undammed river...

The disease, [Proliferative Kidney Disease \(PKD\)](#), has been killing farmed trout for decades. In the last 20 years, it has taken an increasing toll on wild trout populations in Austria, Germany and Switzerland. It has also killed salmon in Norway and Arctic char in Iceland, where studies on the outbreaks suggest links with warmer water temperatures.

There are fewer long-term records about outbreaks in North America, leaving a gap in the science. But there have been incidents in two isolated locations in central Montana. Recent small outbreaks have also occurred in Washington, Oregon and Idaho, according to Montana park officials...

A growing body of science suggests links between outbreaks of PKD with increased temperatures and lower flows, according to Daniel Isaak, an aquatic biologist with the U.S. Forest Service Rocky Mountain Research Station in Boise. In recent studies, Isaak and partner researchers have developed detailed maps and models of how cold-water fish habitat is likely to change in the West—and how proactive management can help. Healthy ecosystems are more resilient to climate change than those compromised by other factors like water diversions, runoff from burned areas or chemical pollution...

Muhlfeld, the U.S. Geological Survey researcher, agreed.

'We can build resiliency in these systems. The fish can rebound if they have, cold, clean, connected and complex habitats, and now's the time to do that work. Yellowstone is a stronghold, with genetically pure populations of cutthroat trout. They've survived even warmer temperatures than today's over the last 14,000 years.' "

[Read More...](#)

Groups sue Helena-Lewis and Clark National Forest over big game security

"A coalition of hunting groups filed a federal lawsuit last week against the Helena-Lewis and Clark National Forest alleging that the agency failed to consider alternatives to controversial new big game security measures.

Montana Backcountry Hunters and Anglers, the Montana Wildlife Federation, Anaconda Sportsman's Club, Helena Hunters and Anglers Association and the Clancy-

Unionville Citizens Task Force filed the lawsuit in U.S. District Court in Missoula Aug. 25.

The organizations say the Forest Service erred in its March 1 decision to eliminate big game hiding cover requirements for the Divide area west of Helena. 'Treeless' big game security puts elk herds in jeopardy and sets a dangerous precedent, the lawsuit alleges."

[Read More...](#)

Elk Vulnerability: Secure Habitat Protects Healthy Herds and Hunting by David Stalling

" 'As road access increases and habitat security declines, we can expect elk to be increasingly vulnerable to hunting,' researchers concluded. 'Without access management, the results will include elk populations with undesirable sex and age structures, increasingly complex and restrictive hunting regulations to protect elk herds, and a loss of recreational opportunity.'

Other studies showed similar results.

'Vulnerability encompasses many factors,' Christensen says. 'Densities of roads open to vehicles, increasing density of hunters, decreasing amounts of elk cover, improved technology . . . taken by themselves they may not be that significant, but put them all together and they're very significant.'

Significant enough that in many elk states, rising elk vulnerability spurred wildlife departments to cut hunting seasons and switch more and more to limited-entry hunting.

'We need to stick to the science and maintain these standards.' "

[Read More...](#)

Academic Papers & Reports

(If you have a paper that you would like to find, email kathryn@emwh.org and I will try to find it for you – I have great resources)

 PKD - Life cycle complexity, environmental change and the emerging status of salmonid proliferative kidney disease 2011

 A Brief Review of the Scientific Literature on Elk, Roads, & Traffic 2013

 Effects of Roads on Elk: Implications for Management in Forested Ecosystems 2005

 Elk Vulnerability Symposium- management effects on elk mortality

Provocative prə'vəkədɪv : serving to provoke, excite or stimulate



Zinke's Feet a Poor Fit for Teddy's Boots

By Jim Posewitz

U.S. Representative Ryan Zinke recently claimed that he was a "Teddy Roosevelt Conservationist." He then voted for H.R. 2316, legislation that would transfer management of four million acres of national forests to state-appointed committees. These committees would be charged with stimulating commodity production and the multiple-use principle for forests that Roosevelt championed would not apply.

Given the impact Roosevelt had on Montana, it's no wonder that our politicians want to lay claim to his legacy. A closer look, however, suggests Rep. Zinke's 'conservation feet' are much too small to fit in Teddy's boots.

Our Montana conservation ethic and our outdoor life style owe a great deal to Roosevelt. During the time he spent in the American West he shot a buffalo in Montana, in 1883, experienced a conservation epiphany and, in 1887, established a club for the introduction of the sporting code and restoration of big game. That club got Congress to pass a provision allowing presidents to set aside forest lands for their protection.

As president, Roosevelt set aside more than 150 million acres as forest reserves. In Montana, those lands included the Kootenai, the Custer, the Elkhorns, the Crazy Mountains, the Big and Little Belts, the Little Rockies, the Helena, the Big Hole, the Cabinets, and more. When you also consider the wildlife refuges, game ranges, parks and monuments he protected, the acres protected exceed 230 million acres. Those are big conservation boots.

When Roosevelt left office, the assault on conservation was immediate. His successor, William Taft, began by obstructing an investigation into corrupt dealings by coal interests in Alaska. Roosevelt's trusted friend Gifford Pinchot, protested, so Taft fired him. After the Great Fire of 1910 burned parts of Washington, Idaho, and Montana, lawmakers proposed selling the land to private interests. The assault on conservation continues to this day, and foes of conservation come by the generation, each with their own scheme. The latest scheme involves transferring public land management to the states. That's what Rep. Zinke voted for in for H.R. 2316.

H.R. 2316 would allow local interests to exploit our national forests for maximum, short-term profit – the very thing Roosevelt wanted to prevent when he established the Forest

Service. Under H.R. 2316, the Forest Service mandate to protect wildlife habitat, ensure clean water, and provide for multiple types of recreation would be removed.

Politicians have been hacking away at the Forest Service's maintenance and operations budgets for decades. They now whine about the bad management that results from those budget cuts and claim local control of national resources can solve the problems those cuts have created.

The reality is that exploitive interests have never been able to accept the conservation ethic of our democracy and continue to find ways to undermine that ethic. H.R. 2316 is the latest attempt to do it. Instead of voting for bills that diminish Roosevelt's conservation legacy, perhaps Rep. Zinke could focus his energy on adequately funding the Forest Service, so it can do the job that our former president intended for it to do.

There is a common cliché that says: *"If the shoe fits, wear it."* I suggest that Congressman Zinke is not close to fitting Teddy's conservation boots.

Jim Posewitz lives in Helena. He is now retired after a career at Montana Fish, Wildlife and Parks and is the author of two books about Theodore Roosevelt, "Rifle in Hand: How Wild America was Saved" and "Taking a Bullet for Conservation".



Gianforte's model wouldn't work for governing Montana

Susan Carstensen, Gianforte's former Chief Financial Officer, Chief Operating Officer and Senior Vice President for Customer Experience of RightNow Technologies for 13 years, also a fifth generation Montanan, residing in Bozeman, is advocating for Steve Bullock for Governor, for a number of business and financial reasons.

"I am supporting Steve Bullock for governor because he has the skills, experience and policy positions to foster a robust economy that allows entrepreneurs to create high-wage jobs across Montana and to make Montana a great place to live and work."

[Read More...](#)

PERC's Terry Anderson Oped Rebuttal

Recently, Terry Anderson, the executive director of PERC, put out a factually incorrect and very privatized perspective oped, mostly aimed at Public Land/Water Access Association.

According to PERC's 2014 Non-profit 990, Anderson made \$180,287. If I were PERC, espousing fiscal conservatism, honestly, I would want a better product for my money; and if I were Anderson, I think with PERC's resources, he could have found the legislative history and law cases for actual references. It only cost me about \$60 for the Stream Access documentation from Helena; and another \$15 for the Gallatin County documents on Gianforte's lawsuit and property information.

I think EMWH & PLWA readers got a much better bang for their buck.

For example, Montana Code Annotated, in 1933, recognized the public's right to use the water and banks up to the "high water flow line" of "navigable" rivers, streams, and sloughs for fishing. That's 52 years before PLWA was created, 1 year after current PLWA president John Gibson was born; and Gene Hawkes, PLWA founder, was 6 years old! To lay all of stream access on PLWA is shortsighted, maybe even myopic.

Anderson's statement, "Led mainly by the Public Land/Water Access Association, Inc. (PLWA), these activists file lawsuit after lawsuit in the name of the "public trust"—and not just to water, but also to wildlife," is even older than Montana's public's use of water rights. The Public Trust Doctrine, in the United States, strengthened in the 1800's, is the cornerstone of the

North American Model of Wildlife Conservation. A model, juxtaposed from the European Model of the "King's Deer", places the wild fish and wildlife resources in public ownership. Montana is such a good example of this, that some are beginning to call it the Montana Model, since not all states in the US subscribe to the North American Model.

This is not just a public trust principle believed in by PLWA and other conservation groups, it is a principle signed onto by the Western Association of Fish and Wildlife Agencies (WAFWA), now that would be our STATE fish & Game agencies. This isn't a PLWA thing, this is very much a United States citizen (public) thing and there's a damn good reason they keep winning their lawsuits in the various courts – they are upholding the law and the public's rights.

Anderson is trying to play a tribalism game by stating, "landowners are simply protecting their private property and their investments in conservation," as though there are not landowners that advocate for stream access or financially support PLWA in their litigation to protect our public trust interests.

In fact, some of the groups supporting HB 265, our Stream Access bill that became law in 1985, were what you would call private interests groups: The Montana Stockgrowers Assoc., Montana Wool Growers Assoc., Montana State Assoc. of State Grazing Districts, Montana Cowbells, Montana Farmers Union, Montana Cattlemen's Assoc., Montana Cattle Feeders Assoc., Montana Farm Bureau Federation, and the Montana Water Development Association. The discussions with sportsmen were said to be, "... a product of cooperation between significant Montana interest groups."

In May of 2006, the University of Montana, Public Policy Research Institute published a report – Stream Access in Montana, covering the 20 years since the 1985 Stream Access Law. "Twenty years after passage of Montana's Stream Access Law, people are still talking—and, in some cases, arguing—about its provisions. This policy report aims to illuminate the unresolved issues and misunderstandings regarding the law, and to lay out options for moving forward..."

The findings of their interviews - "Most of the people we talked with—recreationists and landowners alike—said that the Stream Access Law works well and has been very successful, as evidenced by the hundreds of thousands of anglers, boaters, and other recreationists using Montana streams each year with few if any conflicts with landowners. Several people also said that enactment of the law did not dramatically change people's behavior—there has been no stampede of anglers and boaters and no avalanche of disputes." [Stream Access History](#), beginning on page 3.

Anderson then misleadingly states, "Campaign ads attack Greg Gianforte by claiming that he blocked stream access on his property, but nothing could be further from the truth. Gianforte did file suit against the Department of Fish, Wildlife, and Parks to 'quiet' (clarify) his title by correcting the location of a FWP easement across his property."

I went to the Gallatin County Clerk and Records Office, as well as the County Courthouse to get copies of the original documents to see what the truth of the matter was. [This is what my \\$15 and some time bought the public -](#)

On May 21, 2009, the Gianfortes, through Wittich Law Firm, P. C. (Art Wittich), [filed a Complaint For Quiet Title against FWP](#) to take the Public's land and access.

"12. FWP refuses upon demand to voluntarily extinguish the easement." Since FWP wouldn't just hand over the Public's legally acquired land and access, the Gianforte's LLC sought to, **"extinguish all improperly conveyed property rights and to achieve clean title to the property without burdensome**

encumbrances, such as this alleged Easement."

The Complaint was never served to FWP and was Dismissed Without Prejudice on February 1, 2013 by District Judge John C. Brown (First two pages of the above complaint PDF).

In my fiscal opinion, I think PERC deserves a whopper refund from Anderson, that is if they want accurate Opeds going out under their name? But then, perhaps that is PERC's real mission, a smoke and mirrors, a political shell game, the privatizing lie repeated often enough that it becomes the truth for the gullible, for those who prefer to be willfully ignorant.

When you have large corporation and foundation grants, to the tune of \$3,411,590 coming in, I guess for some, \$ bills are the papers they seek, instead of legislative histories, law cases, courthouse documents and maps.

So contrary to Anderson's \$ colored glasses perspective, most access "zealots" are true Montana sportsmen and women and they do honor and celebrate property rights – both private and public!



Stories from Afield: Adventures with Wild Things in Wild Places

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[Bruce L. Smith](#) Science Writer, Wildlife Biologist

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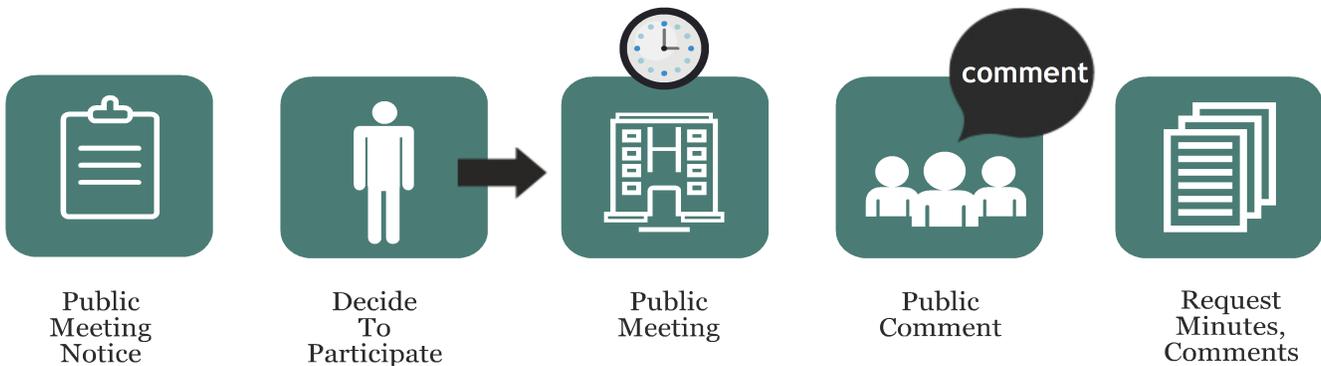
"The state and **each person** shall maintain and improve a clean and healthful environment in Montana for present and future generations."

Constitution of Montana, Article IX, Sec. 1 (1)

Interactive infographic, click on text for MT laws. [Online interactive animated version](#) for sharing. Next right – the interconnected "Right to Know".

Right of Participation

MT Constitutional Right of Participation was a response to insider deal-making in state and local government.



Be A Participant

www.EMWH.org

Right of Participation

One of the first Montana public rights I learned, when I first began dealing with conservation, was from an FWP employee, about the Right of Participation. I learned about it the hard way, trial by fire so to speak, because another FWP employee was refusing to uphold the public's Right of Participation at an upcoming meeting in 2013.

A number of us had initially been invited to the meeting held at a club's location, involving a controversial wildlife management action. We were then informed that it was a closed meeting, for the club members only. But I remembered the prominent FWP employee, at another public meeting stating, that if there were agency employees there, for that portion of the meeting, the public had a right to be there.

I called him, got confirmation and the number for the Montana Code Annotated. I found the referred Montana Code Annotated online (that was my first experience with the site as well), printed a copy, drove to the meeting in another city, about an hour away and showed them the law. I was allowed in.

I could see why we were not wanted at the meeting, it was a very biased, unscientific presentation that was intentionally trying to garner support for an agenda that had no foundation in scientific wildlife management, the Public Trust Doctrine, nor the North American Model of Wildlife Conservation.

I saw the application that night, that knowledge is power, began to look up my rights and utilize the laws. It is my hope, that more of the public will begin to utilize these rights and laws in the protection of our Public Trust.

[The Right to Participate and the Right to Know law review](#)

[MT Open Meetings PDF](#)

- **Open Meetings – MCA 2-3-2**, “The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.”
- **Open Meetings defined – MCA 2-3-203**, “(1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds, including the supreme court, must be open to the public. (2) All meetings of associations that are composed of

public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public...(6) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business that is within the jurisdiction of that agency is subject to the requirements of this section.”

- **Public Notice – MCA 2-3-104**, “An agency shall be considered to have complied with the notice provisions of [2-3-103](#) if: (1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1; (2) a proceeding is held as required by the Montana Administrative Procedure Act; (3) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or (4) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter.
- **Right of Participation – Constitution of Montana, Article II, Section 8**, “The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.”
- **Minutes of Meeting available for public inspection – MCA 2-3-212**, “(1) Appropriate minutes of all meetings required by [2-3-203](#) to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2). (2) Minutes must include without limitation: (a) the date, time, and place of the meeting; (b) a list of the individual members of the public body, agency, or organization who were in attendance; (c) the substance of all matters proposed, discussed, or decided; and (d) at the request of any member, a record of votes by individual members for any votes taken. (3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting. (4) Any time a presiding officer closes a public meeting pursuant to [2-3-203](#), the presiding officer shall ensure that minutes taken in compliance with subsection (2) are kept of the closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for inspection except pursuant to a court order.”

An **adult education series** for those that want to **learn** more about **how to hunt** in Montana

PLAN *to* HUNT

If you are new to hunting, new to the Helena area, want to refine your skills, or just want to connect with other hunters, this workshop series is for you!

The hunting experience you want

August 25 - 6 PM - Montana WILD
(2668 Broadwater Avenue)

Explore the different motivations people have for hunting and how to plan a hunt that meets your expectations. Discover how to decode the hunting regulations and what permits, licenses, and gear you need, depending on what your goals are. We'll also look at resources—such as FWP's Hunt Planner, survey reports, and mapping tools—that will help plan your season.

Getting into the game

Sept 1 - 6 PM - Mt Helena Trailhead
(Reeder's Village Trailhead Parking Lot)

Montana is full of wild animals, yet they often elude us. Experienced hunters will share how to map, scout, track and better understand the behavior and movement patterns of the game you are pursuing. Finding animals during the hunting season, means looking for them now!

Packed and sighted-in

Sept 15 - 6 PM - Capital Sports
(1092 Helena Ave)

We'll lift the veil on what gear is in the pack of Montana's successful hunters and what firearms and archery equipment you need for the animals you are pursuing. We'll cover how to make sure your equipment is ready and give you some insider tips on how to get the most out of your gear.

From field to freezer

Sept 29 - 6 PM - Montana WILD
(2668 Broadwater Avenue)

Have you ever wondered how to best move a 500-pound elk down the trail or how to take a deer and turn it into a stack of venison steaks and burger? Learn the steps—from field dressing, to transport, to wild game processing, that help you move an animal from the field to freezer.

Pre-season questions

Oct. 6 - 6 PM - Montana WILD
(2668 Broadwater Avenue)

You've been preparing for hunting season all year, but you probably still have some questions about access to private lands, what the regulations say, what mapping tools are best, or any number of other things. Join us for an open-session Q&A with local experts to help ensure you are ready for opening day.

Locally grown and served

October 25 - 6 PM - Location TBD

Nothing beats serving up a locally grown and harvested meal—from backyard salad fixins' to elk steak or pheasant casserole. Local hunters and chefs will show you how to take your harvest and turn it into easy, healthy and creative wild harvest meals.

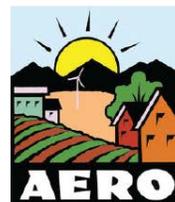
Celebrate the hunt!

Dec. 9 - 6 PM - Montana Wildlife Federation
(5530 North Montana Ave)

Join us for a potluck filled with locally harvested and gathered ingredients. We'll share stories, talk about what we learned and plan for the 2017 season, all while enjoying food and refreshments.

*For more information, follow
Helena Hunters and Anglers:*

*facebook.com/
helenahuntersandanglers*



Wild and Feral Flowers

by

Tim Crawford



Scarlet Guara

[Pheasant Farms Photos](#)

Tim Crawford
1-406-388-4211

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