



MONTANA FOREST OWNERS ASSOCIATION

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February 21, 2017

Senate Highways and Transportation Committee
Hearing Room 405
Montana State Capitol
1301 E 6th Ave
Helena MT 59601

Regarding: OPPOSITION to Senate Bill 0262, "An Act Prohibiting the Restriction of Public Access on Certain Roads or Rights-of-Way Used by the Public Unless Certain Requirements Are Met"

Dear Sir/Madam:

The Montana Forest Owners Association is a tax-exempt Montana corporation since 1995. Its purpose is to represent the interests of family forest landowners. MFOA respectfully opposes Senate Bill 0262.

Senate Bill 0262, though well intentioned, is looking to solve a problem that already has a solution. The Montana Forest Owners Association (MFOA) opposes SB0262 for the following reasons:

1. **Undue burden to the landowner.** SB0262 places an undue burden upon private landowners to prove their properties are private. For example, take the majority of Montana landowners who have allowed fishermen and hunters access through their lands. Now those same generous landowners would have to prove there are no prescriptive easements.
2. **Transfer of burden and infringement of property rights.** The burden should be on the outside persons to prove they have prescriptive easements. Changing that burden is wrong. It is the duty of other parties to prove that landowners have given up those rights.
3. **Preemptive closing.** If passed, SB0262 could result in private landowners reacting by closing all access out of fear that providing access will allow County Commissioners to declare that the public owns the roads through prescriptive easements.
4. **Commissioners granted judicial functions.** SB0262 would allow the County Commissioners the power to decide that a prescriptive easement exists. That decision belongs with the courts.
5. **Lawsuits.** SB0262 will not eliminate lawsuits. It will just add a layer of bureaucracy because whoever is on the losing end of the Commissioner's decision will go to court.

There is a system in place to handle disputes on private lands. There is no good reason for counties to insert themselves in private disputes. For the above reasons, the Highways and Transportation Committee should reject Senate Bill 0262.

Sincerely,

A handwritten signature in blue ink that reads "Mike Christianson". The signature is written in a cursive style with a large initial "M".

Mike Christianson, President
Montana Forest Landowners Association