

Citizens for Balanced Use  
Box 606, Gallatin Gateway, Mt 59730  
[www.balanceduse.org](http://www.balanceduse.org)  
1-406-600-4228

CBU began 2009 with many of our members engaging in the legislative session. One of the big issues we addressed was the changes proposed to the stream access law. Environmental groups such as Trout Unlimited were trying to hold land owners liable for any injury a person might sustain from walking through their property to access a stream or from domestic livestock that may escape the owners property as a result of someone breaking down a fence or leaving a gate open. The bill would have also allowed a public prescriptive easement to be created on private property without just compensation.

Through the efforts of CBU, we were successful in getting amendments added to this bill to protect the landowner from liability and stop any takings of private property. This was a win win situation for both the recreationalist and the property owner. CBU worked very hard to accomplish this as we felt a good relationship between the landowner and recreationalist was a valuable resource.

The following is a summary of the bills which CBU was involved in, our position and the outcome of the proposed legislation.

**HB 44 – Revise DNRC Participation in Federal Forest Management Planning**

*Sponsor:* Rep. Chas Vincent, R-Libby

*Overview:* Requires the state to be involved in federal land planning through cooperating agency status and

through coordination, and allows the state to assist local government in doing the same.

Gives state and

local governments more authority in federal land management decisions.

*Final Status:* Became Law.

Passed House 98-0. Passed Senate 48-1.

*CBU Position:* Support

**HB 139 – DNRC Intervention Authority in Federal Forest Management Projects**

*Sponsor:* Rep. Chas Vincent, R-Libby

*Overview:* Allows the state to intervene in federal forest management projects if there is a significant risk to

the health or safety of the public. This is specifically aimed at reducing fuel loads in Montana forests to

prevent catastrophic wildfires.

*Final Status:* Became Law.

Passed House 98-0. Passed Senate 44-6.

*CBU Position:* Support

**HB 140 – Increase Excess Sustained Yield Authority for Forest Health**

*Sponsor:* Rep. Chas Vincent, R-Libby

*Overview:* Allows the state to increase the sustained yield of timber harvest from state forests if the increase

is used and necessary to address forest health concerns. This bill gives Montana the flexibility to address

things like pest infestations, deadfall and other forest health concerns while keeping a sustained harvest plan in place.

*Final Status:* Became Law.

Passed House 80-20. Passed Senate 43-6.

*CBU Position:* Support

### **HB 150 – Montana Recreation Responsibility Act**

*Sponsor:* Rep. Dee Brown, R-Hungry Horse

*Overview:* Requires participants in recreation activities to knowingly assume the inherent risk of their sport

or activity, which protects landowners and recreation activity hosts and sponsors from frivolous lawsuits.

1

This bill still protects injured recreationists from gross negligence, but does not force landowners and

sponsors to choose between supporting recreation or supporting their own livelihoods.

*Final Status:* Became Law.

Passed House 64-29. Passed Senate 34-16.

*CBU Position:* Support

### **HB 190 – Clarify Bridge Access Law**

*Sponsor:* Rep. Kendall Van Dyk, D-Billings

*Overview:* Allows landowners to attach fences to bridges and anglers to use road rights-of-way to access

streams for recreation. Exempts landowners from most liability, clarifies that recreational access cannot be

created through prescriptive use, and allows the continued use of wood-rail fences.

*Final Status:* Became Law.

Passed House 96-3. Passed Senate 48-2.

*CBU Position:* Initially opposed, but supported with the Senate amendments that we supported with the

Montana Stockgrowers and United Property Owners of Montana.

### **HB 253 – Wild Buffalo Recovery and Conservation Act**

*Sponsor:* Rep. Mike Phillips, D-Bozeman

*Overview:* Would have transferred bison management from the Dept. of Livestock to FWP, which would

have eliminated all federal funding for bison management. It would have also caused a serious impact upon

agriculture in Montana by allowing a disregard for the serious problem of brucellosis containment and

management in Montana.

*Final Status:* Dead.

Failed in House committee 7-10.

*CBU Position:* Opposed

### **HB 314 – Game Animal Damage Mitigation Act**

*Sponsor:* Rep. Kendall Van Dyk, D-Billings

*Overview:* Was designed to give FWP the ability to declare certain private land open to public use for big game hunting. This is one of the biggest potential attacks on private property rights in the legislature. It

would have given FWP control over private property under the auspices of trying to mitigate damage to private property from game concentrations. Landowners would have lost the ability to control who came on their land for hunting purposes.

*Final Status:* Dead.

Failed in House committee 0-18.

*CBU Position:* Opposed

### **HB 455 – Big Sky Rivers Act**

*Sponsor:* Rep. Michelle Reinhart, D-Missoula

*Overview:* Would have prohibited any building within 250 feet of ten major Montana rivers. This was the main stream-side setback bill of the session, and it would have constituted an egregious taking of private property.

*Final Status:* Dead.

Failed House committee 9-9.

*CBU Position:* Opposed

### **HB 542 – Review Motorsports Manufacturers Unfair Trade Practices Laws**

*Sponsor:* Rep. Gordan Vance, R-Bozeman

2

*Overview:* Requires motorsports manufacturers to treat Montana motorsports dealers in a fair manner. It

prevents manufacturers from imposing unfair and abusive trade practices on dealers, which is essential to Montana small businesses in this area and which is helpful to Montana motorsports buyers.

*Final Status:* Became Law.

Passed House 99-1. Passed Senate 50-0.

*CBU Position:* Support

### **HB 614 – Crime to Ride Off-Highway Vehicles on Closed Public Lands**

*Sponsor:* Rep. Gary MacLaren, R-Victor

*Overview:* An attempt to give Montana FWP officers the authority to go on federal lands and enforce federal travel management decisions through state citations. It creates a problem for Montana residents because they could be subjected to double jeopardy by prosecution in both state and federal courts. It also creates a problem where state officers do not understand or keep up to date on ever-changing travel plans and would subject Montanans to harassment. CBU supports effective and common-sense enforcement, but this is not

it.

*Final Status:* Dead.

Tabled in House committee 7-5.

*CBU Position:* Oppose

**SB 31 – Revise Qualifications for FWP Commissioners**

*Sponsor:* Sen. Keith Bales, R-Otter

*Overview:* Would have required that one of the five FWP commissioners be a landowner with at least 1,280 acres of land in order to bring more experience with landowner-sportsmen relations to the commission. The current agricultural representative qualifications are too broad and allow appointees who do not truly understand or represent agriculture and land owners on the commission.

*Final Status:* Dead.

Passed Senate 27-20. Failed House committee 9-9.

*CBU Position:* Support

**SB 162 – Restrict Ability to Limit Hunting Permits for Certain Species**

*Sponsor:* Sen. Debby Barrett, R-Dillon

*Overview:* Prevents the Fish, Wildlife and Parks Commission from limiting hunting permits for certain species when the harvest and population levels do not justify the limit. Requires permit calculations for archery and rifle seasons to be calculated separately. Requires FWP to base hunting permits on populations, not on efforts to impact private property and other political factors.

*Final Status:* Dead.

Failed Senate 23-27.

*CBU Position:* Support

**SB 163 – Make Hunting and Fishing Rules Subject to Economic Impact Statement**

*Sponsor:* Sen. Debby Barrett, R-Dillon

*Overview:* Requires the Fish, Wildlife and Parks Commission to make hunting and trapping permit changes subject to an economic impact statement. Forces FWP to fully understand and consider the economic benefits of hunting and trapping to Montana.

*Final Status:* Dead.

Tabled in Senate committee 4-5.

*CBU Position:* Support

3

**SB 164 – Revise FWP Land Management and Acquisition re: Good Neighbor Policy**

*Sponsor:* Sen. Debby Barrett, R-Dillon

*Overview:* Requires FWP to set aside a certain amount above the purchase price of new properties it acquires for the purpose of maintenance and weed management.

*Final Status:* Became Law.

Passed Senate 26-23. Passed House 100-0.

*CBU Position:* Support

**SB 213 – Require FWP Plan to Manage Wildlife to Prevent Disease Transmission**

*Sponsor:* Sen. Keith Bales, R-Otter

*Overview:* Directs FWP to manage game animal populations with the goal of preventing disease transmission.

*Final Status:* Dead

Passed Senate 49-0. Failed House committee 9-9.

*CBU Position:* Support

**SB 217 – Reimburse Livestock Producers for Tests for Disease Transmitted by Wildlife**

*Sponsor:* Sen. Debby Barrett, R-Dillon

*Overview:* Would have required FWP to use non-sportsmen dollars to reimburse producers for brucellosis tests.

*Final Status:* Dead, but funding included in the budget.

Passed Senate 26-23. Tabled in House committee.

*CBU Position:* Support

**SB 228 – Prioritize Protecting Humans, Livestock and Pets from Predators**

*Sponsor:* Sen. Debby Barrett, R-Dillon

*Overview:* Specifies state policy on wolf management. Clarifies that the first priority of predator management is to protect humans, then livestock and pets, from harm. It ensures that predator species concerns are secondary to those considerations.

*Final Status:* Became Law.

Passed Senate 34-15. Passed House 87-13.

*CBU Position:* Support

**SB 347 – Revise Laws Governing ATV Registration and Use**

*Sponsor:* Sen. Rick Laible, R-Darby

*Overview:* Required license plates on ATV's instead of registration decals. It would have increased the cost of registration, interfered with lights, cargo and rider safety. It is another part of the environmentalist war on motorized recreation.

*Final Status:* Dead.

Tabled in Senate committee 9-0.

*CBU Position:* Oppose

**SB 383 – Require Full-Size License Plates on ATVs and Off-Highway Vehicles**

*Sponsor:* Sen. Jesse Laslovich, D-Anaconda

*Overview:* This bill would have required full-size license plates on ATV's. This bill raises safety concerns because the large size of license plates can cause problems with cargo, lights, rider safety and other issues.

It is also another part of the environmentalist war on motorized recreation.

*Final Status:* Dead.

Tabled in Senate committee 6-3.

*CBU Position:* Oppose

**SB 402 – Clarify Property Rights for Which Just Compensation is Due When Taken**

*Sponsor:* Sen. Jim Peterson, R-Buffalo

*Overview:* Would have defined what should be considered “property” for the purposes of Constitutional

protections against government takings.

*Final Status:* Dead.

Passed Senate 31-18. Failed motion to bring to House floor 49-49.

*CBU Position:* Support

**SB 435 – No Net Gain in State Land**

*Sponsor:* Sen. John Brenden, R-Scobey

*Overview:* Would have required state agencies to sell similar parcels of land to offset new purchases as a

way to slow the growth of government land ownership.

*Final Status:* Dead

Passed Senate 25-24. Failed House committee 9-9.

*CBU Position:* Support

**SJ 7 – Opposition to SR 2421**

*Sponsor:* Sen. John Brenden, R-Scobey

*Overview:* Resolution to Congress urging opposition to SR 2421 and similar federal measures designed to

give federal control over all surface waters in the US. This bill is essential to maintaining state’s rights and

our local authority over Montana water.

*Final Status:* Dead.

Passed Senate 31-18. Failed House committee 9-9.

*CBU Position:* Support

**SJ 7 – Management of the Galton Study Area**

*Sponsor:* Sen. Aubyn Curtiss, R-Libby

*Overview:* Resolution to Congress urging multiple-use management by the Forest Service of the Galton

Study Area in the Kootenai National Forest. Calling for timber management to prevent catastrophic

wildfires, and continued multiple-use recreation access. Urging the federal government to seek coordination

with the Montana legislature and local governments before making any road or management decisions that

would diminish its multiple-use qualities.

*Final Status:* Dead

Passed Senate 33-17, Died in House committee 9-9.

*CBU Position:* Support

Overall CBU believes we were very successful in our efforts with the 2009 legislature. The reason for this was the dedication and time devoted by our board and

many members of our organization. I can not express the importance of people becoming educated on the legislative process and taking the time to go to Helena during the session and testify before the committees and talk to the legislators.

CBU also had a member position on the Montana Restoration and Conservation Partnership Committee. This committee met quarterly and worked to develop a strategy to implement restoration projects on private land. CBU was concerned that this committee may move in a direction that would erode private property rights and through our position on this committee we were able to make sure private property owners were protected against unwanted government control of their property. CBU will continue to be a part of this committee in 2010.

CBU joined another committee in conjunction with UPOM, PERK and MPI to work on protecting private property. These meetings are ongoing and work will continue through the coming years to educate the public on the importance of property rights as they relate to a clean environment and sustainable agricultural operations.

CBU launched our new website in 2009 bringing our organization up to date on technology and our ability to communicate with the world. We still maintain our old web address [www.citizensforbalanceduse.com](http://www.citizensforbalanceduse.com) but we also have a new address at [www.balanceduse.org](http://www.balanceduse.org) both of which will take you to our new site. As time goes on we will be able to provide many new services through this new media port. One of which is we will be able to live webcast meetings and events across Montana so people can be a part of these without leaving the comfort of their home. Look for this new service in the months to come.

CBU was also surprised in 2009 by a new wilderness bill being proposed by Senator Jon Tester for all of the Beaverhead Deerlodge National Forest and two other small portions of two Montana forests. Members of the CBU Board met with members of the Montana Wildlife Federation, Montana Wilderness Association, and Sun Mountain Lumber as they wanted our support. CBU was not surprised when these organizations and Sun Mountain were not willing to make any changes to the proposed wilderness that we requested.

This bill, known as S1470, is still one of the important issues CBU and our members are fighting to stop. The bill will create another 670,000 acres of wilderness and 320,000 acres of restricted use land. CBU produced a DVD with experts on why the legislation was not in the best interest of the public and we helped facilitate several public meetings to educate the public and provide a forum for people to comment. CBU distributed petitions to our members and paid for ads to provide an opportunity for people to show their opposition to the bill. We delivered over 7000 signatures to Senators Tester and Baucus in opposition to this bill.

S1470 was conceived and drafted in secret between a couple of logging companies and 3 environmental groups. The bill is both illegal and unconstitutional. CBU would be happy to provide a complete legal analysis on S1470 upon request.

CBU also worked closely with the FS in an effort to educate the public on the damage off trail riding can do to our federally managed public land. We continued with our reward project in the Pipestone Area and posted information to let our members know what we may lose if off trail riding were to continue. Other supporting organizations of CBU used peer pressure as a way to curb off trail riding by not allowing persons caught

riding off trail to participate in any organized events. These efforts have been very successful and CBU thanks everyone for stepping up to the plate.

CBU submitted comments on several forest projects and appealed those decisions our members were opposed to. We have had legal council through the income from the sales of our Specialty License Plate and we will continue to stay engaged in the judicial side of our government. We have found the other side has been very successful in filing litigation and in fact have turned it into a business. Billions of dollars are being paid to environmental groups that prevail in litigation. These groups have come to depend on successful litigation as a way to fund their organizations. We have come to realize that for them it is no longer about the environment but it's all about the money.

We continue our legal battle on the Gallatin National Forest as we have filed an appeal on Judge Molloy's decision to the 9<sup>th</sup> Circuit. The court system is frustrating as the length of time it takes to move through the process. The Forest Service in the meantime keeps closing trail after trail and area after area to multiple use. CBU also filed legal action on the Badger 2 Medicine after the Forest service closed 90% of the multiple use trails in that area.

CBU is working with 3 counties within the Beaverhead Deerlodge National Forest and several members and organizations in preparation of filing yet another legal action on the Beaverhead Deerlodge Forest Management Plan. This plan closes yet another 50% of the riding available to multiple use. The forest management plan puts at risk agricultural operations dependant on multiple use access and also the resource industries that provide the good paying jobs for Montana citizens. We are working closely with many agricultural and resource industry organizations on this issue.

On a lighter note CBU held our first annual Trailraiser Banquet in June and it was a total success with over 200 people attending. It was held at the Gran Tree in Bozeman with dinner, silent and live auction. We raffled off a new Polaris 500 ATV which was provided by Lewistown Honda at a reduced cost. This was a great event and we thank all who attended and supported CBU.

CBU held our 3<sup>rd</sup> annual Networking Conference which was attended by more than 30 organizations including the following. Bozeman Mountaineers, Montana Snowmobile Association, Headwaters Chapter of the Gold Panners of America, Beaverhead Outdoor Association, Gallatin Valley Snowmobile Association, Families For Outdoor Recreation, Montana 4x4 Association, Midland Empire Snowgoers, Montanans for Multiple Use, Save the West, Outfitters Association, Treasure State ATV Association, Montana Motorsport Dealers Association, Hi Mountain Recreation, Capitol Trail Vehicle Association, Montana Stockgrowers Association, Montana Multiple Use Association, Ravalli County Off Road Users, Montana Trappers Association, Montana Petroleum Association, Montana Farm Bureau Federation, Billings Motorcycle Club, Montana Policy Institute, Montana Growth Network, Bozeman Gem and Mineral Club, South West Farm Bureau, Montanans for Private Property Rights, Montana Logging Association, and USA ALL from Utah.

CBU provides this opportunity annually to businesses and organization leaders so they may communicate the current issues that are affecting them to others that attend this conference. Some of the issues raised included the devastation of wolves and bison on livestock, the continued closures and lack of multiple use access to our trails and roads on federally managed public lands, lack of access to our gems, minerals, timber, oil and gas,



reserves because of frivolous litigation and excessive government regulation, attacks on private property rights through new proposed wilderness designations, lack of accountability and transparency in government agencies, estate taxes that threaten agriculture operations, the lack of control of brucellosis, the complexity of NEPA and the Endangered Species Act, winter access to Yellowstone Park, the poor condition of our forests and the Pine Beetle infestation that is putting private property, air quality and our watersheds at risk, the attempt by the federal government to take control of all waters in Montana.

These are but a few of the issues that were discussed at the conference. The participants benefit from this annual conference by having a better understanding of all the different issues we face and how we all must continue to work together to provide a better future for the next generation.

CBU participated in the Montana Partnership <http://montanapartnership.org/site/> for a second year as the only multiple use recreational representatives. We are proud of promoting sustainable agriculture, historic heritage, open lands, wildlife, clean water, natural resource management, recreation, sustainable local economies. It became clear in the beginning of this process that the FWP was looking for yet another funding mechanism.

CBU attended IBMP (Inter-agency Bison Management Plan) meetings concerning the possible release of diseased free ranging-uncontrolled bison in the state of Montana. We met with county and state elected officials in an effort to represent livestock owners adversely affected by brucellosis infected bison leaving Yellowstone Park.

The CBU board members also work with and are members of many other organizations from summer motorized, stock users, and hunting & fishing organizations. We are finding like that people are willing to share the federally managed public lands and the rhetoric being spread by environmental groups trying to divide the user groups is steadily being discredited.

CBU is actively promoting the CFBU specialty plate. This specialty plate is helping to fund a full time legal staff. Federal land management agencies are continuing to close area after area to multiple use and our legal staff is challenging these decisions in court. We are actively working with our state and federal legislators but the need for legal representation through the judicial system is a very important part of our fight.

CBU is working with the Gallatin forest to gain grant moneys to maintain and plow winter access points. We have had several meeting with the Gallatin National Forest in an effort to expand winter parking areas. The Forest Service has been slow to respond to our requests but we continue argue the need for these facilities.

CBU released our first multiple use 2010 calendar in November of 2009. Our members submitted pictures for the new calendar and it was a great success. We plan to continue this for next year and contact CBU to reserve one for next year.

CBU was asked to participate by the Gallatin National forest in a meeting concerning public lands access and new trail construction for non-motorized users across a private landowner conservation easement in the foothills of the Bridger Mountains. We assist landowners when the Forest Service targets them to take their property for public use. Private property rights are the corner stone of our country and we work very hard in helping property owners preserve these rights.

CBU has a position on the Resource Advisory Committees in both Gallatin and Park Counties. Through this committee we are able to help direct grant money to those projects that will benefit multiple use recreation and the resource. If you have a project in the Gallatin National Forest which you feel would benefit recreation, please contact CBU with this information.

CBU actively participated in maintaining motorized and non-motorized trails on forest lands. Members and supporting organizations of CBU cleared and maintained thousands of miles of trails throughout Montana over the last year. We help snowmobile clubs secure grants for grooming and we help educate users in trail etiquette and the concept of shared use.

CBU sponsored the Gallatin Valley Interconnect challenge which featured users from all types of recreation in a county wide relay around Gallatin County. This effort is ongoing with the final adoption of the County Parks and Trail Plan to be released in late 2010. Gallatin County including those located on federally managed public land. After adoption the plan will help federal land management agencies coordinate with local government when designating trails. <http://interconnectchallenge.blogspot.com/>

CBU continues to reach out to other organizations in Montana and the U.S. in an effort to share information and help educate the public on why access is important to everyone. The access to our federally managed public lands should not be something reserved only for the elite few that have the physical ability or time to spend a week hiking to these remote areas. The valuable multiple use trail systems we have in place must be protected and preserved for the physically challenged, elderly and future generations to enjoy and CBU will continue our efforts in helping maintain and protect the last remaining multiple use lands.

If you would like more information or would like to contribute to CBU, please visit our website at [www.balanceduse.org](http://www.balanceduse.org)

Kerry White  
Executive Board  
CBU