SENATE NATURAL RESOURCES
EXHIBIT NO. 9
DATE Feb. 13, 2009
BILL NO. SB 417

Senate Bill 417
February 13, 2009
Presented by Bob Lane
Senate Natural Resources Committee

Mr. Chairman and committee members, I am Bob Lane, Chief Legal Counsel, of the Montana Department of Fish, Wildlife & Parks (FWP).

FWP uses environmental impact statements (EIS) and environmental assessments (EA) as the principal tool for assessing, reviewing and analyzing proposed projects and making significant policy decisions that impact the environment. Construction of facilities for the public's use on fishing access sites and state parks, the acquisition of conservation easements and land for wildlife habitat and public use, and the development and adoption of state management plans for wolves and for grizzly bears are examples of the use of EISs and EAs.

Through the use of MEPA, FWP considers options, assesses risks and benefits, informs the public, and provides the public with its opportunity to influence decisions and to hold FWP accountable for its decisions. MEPA is our planning and decision-making process for any decisions impacting the environment. FWP decisions that affect the habitat, hunting, fishing and trapping, and recreational opportunities all require, and rightfully so, MEPA analysis with public participation. These decisions are the core of our statutory mandate and responsibilities for which FWP is the public's steward. FWP's constituents include essentially everyone in the state and many outside the state. They include hunters, fishers, trappers, landowners, recreationists, and many organizations that value Montana's wild resources.

SB 417 would make it very difficult, if not impossible, for FWP to carefully and fully study and investigate projects and policies and, most importantly, to involve the public by considering and using their views and ideas.

Because FWP could no longer use EISs and EAs in making a decision, those making decisions would need to be totally disconnected from and ignorant of the content of EISs and EAs and of public opinion. This would be the only way to comply with SB 417's prohibition on the use of MEPA in decision-making while complying with the remaining obligation to still do EISs and EAs.

Although, this makes no sense, it is what SB 417 commands. FWP would be forbidden to use the very vehicle of compliance with Montana's constitutional and statutory requirements of right to know and public participation. Montana's Constitution, Art. II, §§ 8 and 9, and MCA 2-3-101 through 114 (Notice and Opportunity to be Heard) and MCA 2-3-201 through 221 (Open Meetings).