

A sensible way to solve the bridge access and fencing problems

During the past few years, landowners and anglers have been working on a proposal that clarifies state law regarding the rights of landowners to extend their fences to bridge abutments. As it now stands, such fencing is illegal. A public right-of-way along all public roads, usually about 30 feet extending in each direction from the center line, continues along bridges. It is unlawful for private landowners to encroach on a public right-of-way, and that includes extending a fence to a bridge. Obviously, the law needs to be adjusted. It is common practice—and common sense—for livestock owners to run their fence up to a bridge to keep cattle and other livestock from wandering out onto the road.

Unlikely as it might sound, the group pushing hardest for the clarification is Montana Trout Unlimited. In exchange for supporting the legalization of bridge abutment fencing, trout anglers and floaters want landowners to make it easier to cross the fences at the abutments to reach streams. Under Montana's 1985 Stream Access Law, streams are public on both banks up to the high-water mark. And because bridges are where the river right-of-way intersects the road right-of-way, anglers may legally access streams from bridges. Though this provision has never been codified in law by the legislature, a 2000 Montana attorney general's ruling determined that county bridge access is legal. Stream users don't think it's fair that they have to climb over barbed wire to exercise legal access.

Montana Trout Unlimited—along with Fish, Wildlife & Parks, the Montana Stockgrowers Association, Montana Farm Bureau, Montana Wildlife Federation, and Montana Association of Counties—is proposing to kill two birds with one stone. The pro-



DENVERBROWN.COM

posal would make it legal for landowners to fence to abutments, and make it easier for people to cross fences at the abutment with a gate, stile, angler's ladder, or PVC pipe over the top barbed wire strand. We're not talking about creating fishing access sites or putting in parking lots, just minor fence modifications. Montana Trout Unlimited and other sportsmen's groups will help fund and construct the angler accesses for any landowners who ask them, as several ranchers have already done.

During the 2007 legislative session, a similar proposal passed the Montana Senate with Governor Brian Schweitzer's support, but the House declined to pass that bill. Come 2009, we're hoping that a bill with broad legislative support will become law. It would finally put to rest the unfortunate situation where it's illegal for livestock owners to keep their cattle out of the road and anglers risk tearing their waders or breaking their necks trying to legally move from a bridge to a stream.

—M. Jeff Hagener, *Director, Montana Fish, Wildlife & Parks*

NATURAL WONDERS
ILLUSTRATIONS BY PETER GROSSHAUSER

Q. What is the most popular fishing river in Montana?

A. Based on the number of anglers fishing there each year, it's the



Madison. Other heavily fished rivers include the Missouri, Bighorn, Bitterroot, Clark Fork, Gallatin, and Yellowstone. Fishing pressure is greatest in July.

Q. A Montana game warden seems like a dream job. How do I apply?

A. A prospective game warden must be at least 20 years old and hold a bachelor's degree from an accredited university in fish and wildlife management, park management, outdoor recreation, criminal justice, or a

closely related field. Applicants must also be in excellent physical and mental condition and pass a battery of physical and psychological tests before becoming a candidate for the job. For more information, call (406) 444-5653.

