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LEGAL UNIT  
FISH WILDLIFE & PARKS

ADMINISTRATIVE RULES OF MONTANA (ARM) 1.3.308 PETITION FOR RULEMAKING

MONTANA DEPARTMENT OF FISH WILDLIFE AND PARKS


MONTANA FISH WILDLIFE AND PARKS COMMISSION

In the matter of adoption of rule to allow use of a crossbow during archery only season by disabled hunters who otherwise qualify but cannot use even currently approved modified archery equipment.	RULEMAKING PETITION
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1. Attorney, Bruce A. Fredrickson of, submits the following Petition to the Montana Department of Fish Wildlife and Parks (FWP) and the FWP Commission on behalf of clients and Petitioners:
  - a. Lt. Colonel Tim Patrick Gardipee (Ret.) of Missoula, MT c/o Bruce A. Fredrickson, Rocky Mountain Law Partners, P.C., P.O. Box 1758, Kalispell, MT 59903. LTC Gardipee is a disabled Montana hunter residing in Missoula, MT with disabilities qualified under Montana law, and the Americans with Disabilities Act (ADA), which otherwise qualify him to apply for and receive from FWP a Permit to Modify Archery Equipment (PTMAE), but his disability is such that he cannot effectively or safely use the approved device. LTC Gardipee can effectively and safely use a crossbow and would be permitted to do so in 48 other U.S. states.
  - b. Petitioners Bruno Fria of Missoula, MT, Brad Molnar of Laurel, MT, and David Helmers of Plentywood, MT (each c/o Bruce A. Fredrickson, Rocky Mountain Law Partners, P.C., P.O. Box 1758, Kalispell, MT 59903) are also Montana residents and are similarly situated, to one degree or another, with regard to disabilities that do not enable them to in any way actually use the approved method of modifying archery equipment.
2. Whether by rule (ARM 12.3.106 (repealed)) or policy (Guidelines for Those Authorized with PTMAE), or application (2023 Permit to Modify Archery Equipment), Petitioners are repeatedly instructed that "Crossbows may not be used during archery season".
3. Petitioners are involved in federal litigation with FWP and the Commission regarding the matters pertaining to this Petition. (*See, Gardipee et al. v. Montana FWP*, 9:21-cv-00095-DLC-KLD). The Complaint and its Exhibits in the Federal action are in the possession of FWP and the Commission and are incorporated as part of this Petition. Declarations from each of the Petitioners filed with the Federal Court in the above referenced action area are also in the possession of FWP and the Commission, and are also filed with, and incorporated as part of this Petition. The incorporated Complaint and Declarations set forth sufficient facts to show how Petitioners and any other known persons, similarly situated, will be affected by a commission adopted rule that allowed the use of crossbows during the approved and established archery season. The facts set forth in the incorporated Complaint and Declarations show the manner in which the Commission can adopt rules within its current policies to limit the exclusion (use of a crossbow) while still maintaining the purpose of other adopted policy (Fish and Wildlife Commission Policy on Archery Season Intent and Equipment Evaluation Criteria). Together, this Petition, and the incorporated supporting Exhibits show sufficient facts regarding how Petitioners will be affected by an adoption of a specific rule or amendments to the aforementioned policies regarding crossbow use during the archery season. This is presented to meet the requirements of ARM 1.3.308 (1)(a)(ii).

4. The attached and incorporated Complaint and Declarations also include facts and propositions of law, including relevant provisions contained in the Montana Constitution, the ADA and the Federal Rehabilitation Act of 1973, to establish and fulfill the requirements pursuant to ARM 1.3.308(1)(a)(iv).
5. With regard to ARM 1.3.308(1)(a)(iii), FWP repealed ARM 12.3.106, which would have, potentially, provided Petitioners the ability to offer a specific amended rule. Accordingly, the Commission has more than a few viable options upon which to act on the Petition. The Commission could re-adopt some form of ARM 12.3.106 with respect to disabled hunters and insert language to the affect that crossbow use is permitted in limited circumstances where an applicant demonstrates that the disability exists and the currently available PTMAE approved equipment is not an available accommodation. In this regard the Commission could re-adopt certain provisions formerly contained in ARM 12.3.106, which would include a definition of disabled person (formerly ARM 12.3.106(1)(a)(i), and (f) with respect to mobility, lifting, or other conditions making the preferred modified archery equipment unusable for them. The operative parts of the proposed rule would provide that: A person may be allowed to use a crossbow during the archery season, if and only if, an applicant otherwise qualifies for and submits the PTMAE application and can further demonstrate to the satisfaction of the Department that the approved and preferred equipment modifications do not offer them a reasonable means of accommodation required under the ADA or Montana Disability Act due to their medically established physical condition.
6. The Commission can also amend the aforementioned policies and application to strike "Crossbows may not be used during archery season" from the policies and application for PTMAE or even more simply amend them to read that "Crossbows may not be used during archery season, unless an applicant otherwise qualifies for and submits the PTMAE application and can further demonstrate to the satisfaction of the Department that the approved and preferred equipment modifications do not offer them a reasonable means of accommodation required under the ADA or Montana Disability Act due to their medically established physical condition."
7. Petitioners have knowledge of many persons who have a particular interest in the adoption of the Petition either as a policy change or adoption of a specific rule who will provide testimony when required.
8. Petitioners request a hearing or forum for expression of Petitioners' and interested persons' views.

WHEREFORE, Petitioners request the Montana Fish and Game Commission to order that the Montana Fish Wildlife and Parks adopt a rule or change current policy to allow certain disabled hunters to use a crossbow during the archery season.



Date: July 18, 2023

Bruce A. Fredrickson, Attorney and Authorized Representative for  
Petitioners, LTC Tim Gardipee, Bruno Fria, Brad Molnar, and David Hellmers.

References and Attachments Incorporated Herein



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*Attorneys for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

TIM ANDREW GARDIPEE; BRUNO  
FRIIA; BRAD MOLNAR; DAVID  
HELMERS, All Individually,

Plaintiffs,

vs.

STATE OF MONTANA; and  
MONTANA DEPARTMENT OF FISH  
WILDLIFE AND PARKS,

Defendants.

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**DECLARATION OF  
Lt. Col. Tim Andrew Gardipee, Ret.  
(28 U.S.C.A. § 1746(2))**

Pursuant to 28 U.S.C.A. § 1746(2), Lt. Col. Tim Andrew Gardipee, Ret., hereby declares under penalty of perjury that the following facts are true and are within my personal knowledge:

1. I am a citizen of the United States, a resident of the State of Montana, residing in Missoula, Montana. I am of legal age and I am competent to be a witness. I am percipient and if called upon to testify could testify to the following, all of which are within my own personal knowledge.

2. I am a Retired United States Army Lieutenant Colonel and I am a combat veteran. I served in four combat zones – Somalia, Bosnia, Kosovo and Iraq.

3. I am a qualified member of two federally recognized Native American Tribes (the Fort Belknap Assiniboine & Gros Ventre and Turtle Mountain Chippewa).

4. My disability is the result of a neurological vaccine injury in 2012 (Transverse Myelitis C-4 Paralysis) due to complications from a previous military parachute crash landing injury in 2005.

5. I am wheelchair bound because of my injury and physical condition. I cannot kneel, nor can I stand or walk without the aid of a walker, and then only momentarily. I have only limited pull capacity – maximum 30 pounds. All of those disabilities are physical requirements necessary to operate compound bows.



6. I am under the regular care of a medical doctor licensed to practice in the State of Montana. I have a Veterans Administration disability rating of two hundred and forty percent (240%) as a result of the injury.

7. I continue to suffer nerve damage.

8. I undergo regular physical therapy to maintain adequate upper arm mobility and strength.

9. I completed my hunter safety course in 1968 and began hunting with my father, uncles and cousins in locations we consider sacred to our heritage, including the Bear Paw Mountains, the Missouri Breaks, and the Rocky Mountains.

10. Hunting is important, not only to my Native American heritage, and Montana heritage, but also because I hunt with other veterans to deal with the lingering trauma associated with military service and combat.

11. I began actively hunting in 1968 and continued hunting for heritage, sport, and sustenance through college until I joined the United States Army where my hunting activity was halted because many places where I was stationed did not allow it.

12. I missed hunting immensely but was willing to sacrifice many hunting seasons so others could live free and hunt while I served my country.

13. When I left active service and joined the Army Reserve, I renewed my hunting activity in earnest and purchased a traditional bow so I could enjoy hunting during the archery season, which occurs in addition to and before the traditional rifle hunting season.

14. In addition to an early start and a subsequently longer hunting period, hunting during the regular archery season offers unique opportunities and benefits. For example, male deer, elk and antelope are in rut; game has a sense of calm after not being pursued for several months, etc.

15. Because of these advantages, which are offered to all other Montana hunters wishing to participate, including my normal hunting companions and my family; and because of my heritage, health, and desire to hunt during the designated Montana Bow Hunting season, on July 21, 2021, by certified mail, return receipt requested, I requested a reasonable accommodation under the Americans with Disabilities Act from the State of Montana through the Montana Department of Fish Wildlife and Parks ["FWP"]. I made that request after learning that other disabled hunters had made similar requests. A true and correct copy of my request is attached hereto as **EXHIBIT 1**.

16. I know that FWP received my accommodation request because I received the return receipt indicating that it was received. I assume my request for accommodation was denied by FWP. I have not received a denial letter, but I

know that both Brad Molnar and Bruno Friia each received letters denying similar accommodation requests.

17. I currently plan to hunt and partake in as much outdoor activity in Montana as possible.

18. I have hunting trips planned with family, fellow veterans and soldiers, other friends, and I am currently willing and able to hunt in the 2021 Montana Bow Hunting Season beginning on September 4, 2021, because I am, or will otherwise be, eligible to hunt during the 2021 Montana archery season.

19. Although I am able to hunt with a rifle, I have a disability permit issued by the State of Montana through FWP for certain activities relating to hunting but it does not allow me to use a crossbow during the Montana regular archery season.

20. I would be able to hunt on state land, federal land, and I have offers by private property owners that would permit me many unique access opportunities due to my status as a disabled military combat veteran, which I am unable to pursue due to the State of Montana's position disallowing my use of a crossbow.

21. Money collected from license fees and ammunition purchase, which I pay, help and even substantially fund Montana's archery program.



22. Currently, the only weapons that are permitted during archery season are “longbow, flatbow, recurve bow, compound bow, or any combination of these designs.”

23. The device modifications allowed by FWP are insufficient to permit me to use approved equipment because I lack necessary physical strength and capacity to perform required functions.

24. I have investigated both modified compound bows and crossbows.

25. I have discussed the requirements of each and my physical capacities with my physician.

26. Based upon my doctor’s physical examinations, understanding of my physical condition, capabilities and restrictions, my doctor concluded that I cannot operate even a modified compound bow, but that I could safely and effectively use a crossbow.

27. I intend to purchase a crossbow (TenPoint RDX 400 ACUdraw PRO Crossbow - Pro-View Scope Package Crossbow) in the event I am able to use it during Montana’s regular archery season.

28. I will purchase an archery permit for the 2021 Montana archery season if I am able to use a crossbow to hunt.

29. I am aware of other similarly situated disabled hunters who were invited to meet with FWP, but I have not received a similar invitation

30. Although I requested a meeting with the FWP Director to occur prior to what was the next regularly scheduled FWP Commission Meeting on August 20, 2021, that meeting never occurred.

31. I am willing to appear before FWP and testify regarding my situation and need for an accommodation.

32. Although I haven't received a formal denial letter, I assume the FWP Commission, and the FWP Director and staff, as well as the Montana Attorney General denied my request for a reasonable accommodation because crossbows are not a legal method of hunting during the archery season, even though crossbows are legally allowed during the rifle hunting season.

33. I have been provided with no evidence that FWP's Commission, Director or staff undertook any inquiry into whether permitting me to use a crossbow to hunt would place any burden on FWP, the State, the game animal population, or on other hunters.

34. I have not been provided with any evidence from FWP that anyone at FWP has ever completed an inquiry into whether allowing me to hunt with a crossbow would change the nature of the archery program.

35. There were no concerns expressed to me about my personal safety, the safety of other hunters, or animal safety.

36. There were no concerns expressed to me about safety in general.

37. I was provided with no evidence that any inquiry was made by FWP into whether allowing me to use a crossbow to hunt during archery season would place a burden on FWP; there was no discussion of how any such burden, properly conceived, or not, would burden FWP differently in archery season than it does in the already approved use in rifle season.

38. There was no inquiry as to why I, or any other disabled hunter, would choose the weapon most difficult to successfully operate during each of the two seasons mentioned - archery and rifle.

39. In denying my request for reasonable accommodation to use a crossbow to hunt big game during the scheduled archery season, no one at the FWP offered any alternatives to me that would allow me to participate in archery season in Montana.

40. FWP did not assess my ability to operate archery equipment accepted for use during archer season. Neither did FWP assess my ability to operate a crossbow.

41. FWP failed to mention and failed to adequately address issues raised by my medical doctor.

42. FWP offered no reasoning whatsoever with respect to the positions taken by my doctor.




43. By not permitting me to use a crossbow during archery season, FWP is fully aware their position seriously impacts my ability to hunt and is severely restricted or even completely eliminated during the Montana regular archery season.

44. If I was able to participate in archery season, it would give me access to more hunting dates and more opportunities to hunt.

45. Archery hunting during Montana's regular archery season is a major life activity that I enjoyed for many years. However, I am no longer able to enjoy that activity since FWP has refused my request for a reasonable accommodation – the use of a crossbow – so I can continue that activity that is so important to me and is part of my heritage.

**I declare under penalty of perjury that the foregoing facts are true and correct and are within my personal knowledge.**

DATED this 20<sup>th</sup> day of August, 2021.

  
\_\_\_\_\_  
Lt. Col. (Ret.) Tim Andrew Gardipee,  
Declarant

LTC Tim A. Gardipee  
5570 Brumby Lane  
Missoula, MT 59808

July 21, 2021

Kgyn Kuka  
FWP Diversity Coordinator  
P.O. Box 200701  
Helena, MT 59620-0401

Re: Request to Use Crossbow During Archery Season as a Reasonable  
Accommodation Under the Americans With Disabilities Act

Dear Ms. Kuka:

Pursuant to the Americans With Disabilities Act (ADA), I am hereby requesting permission to use a crossbow during archery season this upcoming September and October.

To give you some background about my situation, I have been passionate about hunting ever since I completed a hunter safety course in 1968. I hunted the Bear Paw Mountains, the Missouri Breaks, and the Rocky Mountain with my father, cousins, and uncles. I continued hunting and harvesting game to eat through my college years.

I later joined the Army and spent many years stationed in areas where no hunting opportunities existed. I missed hunting immensely but willingly sacrificed many hunting seasons so others could hunt while I served my country.

After I left active service and joined the Army Reserve, I purchased a bow and began hunting during archery seasons.

I became paralyzed in 2012 as a result of a catastrophic injury below the neck. The Veterans Administration gave me a 240% disabled rating due to the loss of my two lower limbs. I continue to suffer from nerve damage. I can stand and walk a few steps and I have upper arm mobility to use a rifle. Utilizing a compound bow requires standing or kneeling. I can do neither.

I am therefore requesting that FWP reasonably accommodate my disability by allowing me to use my crossbow during archery season in September and October. Both common decency and the ADA require that disabled Montanans, particularly disabled veterans, have the same opportunities to participate in archery season as able-bodied hunters

I am currently retired and had planned to hunt, fish, and partake of outdoor activities as much as possible. Being in a wheelchair, however, has enormously limited my enjoyment and access to hunting and will continue to do so. Please comply with the ADA and agree to reasonably accommodate my disabilities by allowing me to use a crossbow during archery season.

Thank you!

A handwritten signature in black ink, appearing to read "Tim A. Gardipee". The signature is fluid and cursive, written over a light blue horizontal line.

Tim A. Gardipee



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*Attorneys for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

TIM ANDREW GARDIPEE; BRUNO  
FRIIA; BRAD MOLNAR; DAVID  
HELMERS, All Individually,

Plaintiffs,

vs.

STATE OF MONTANA; and  
MONTANA DEPARTMENT OF FISH  
WILDLIFE AND PARKS,

Defendants.

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**DECLARATION OF  
Bruno Friia  
(28 U.S.C.A. § 1746(2))**

Pursuant to 28 U.S.C.A. § 1746(2), Bruno Friia., hereby declares under penalty of perjury that the following facts are true and are within my personal knowledge:

1. I am a citizen of the United States, a resident of the State of Montana, of legal age and I am competent to be a witness. I am percipient and if called upon to testify could testify to the following, all of which are within my own personal knowledge.

2. I am a semi-retired businessperson.

3. My disability is a result of three rotator cuff surgeries.

4. I am under the regular care of an orthopedic medical doctor licensed to practice in the State of Montana

5. I cannot pull more than 30 pounds vertically or horizontally which are physical requirements necessary to operate a recurve or compound bow.

6. I completed my Montana hunter safety course in 1978 and later completed my Montana bow education to begin bow hunting in the State of Montana.

7. In addition, I have successfully completed the International CROSSBOW Education Course.

8. I began actively using a recurve bow in 1964 in competition and hunting.

9. In addition to an early start and a subsequently longer hunting period, hunting during the opening archery season offers unique opportunities and benefits. I'm 80 years of age and hunting in a more favorable climate during archery only season assists in my disability and age. In addition, the hunting population at large is smaller during the Montana Archery season.

10. Because of these advantages, which are offered to all other Montana hunters wishing to participate, including my normal hunting companions and my family; and because of my health and desire to hunt during the designated Montana Archery only Bow Hunting season is consistent with the Montana hunting heritage and with my history of bow hunting.

11. I requested a reasonable accommodation under the Americans with Disabilities Act from the State of Montana through the Montana Department of Fish Wildlife and Parks ["FWP"] on May 13, 2021. A true and correct copy of my request is attached hereto as **EXHIBIT 1**.

12. My request for accommodation was denied by FWP letter dated August 9, 2021. **EXHIBIT 2**, attached.

13. I also submitted an ADA Complaint to the United States Department of Justice ["USDOJ"]. I initially received a "no action" letter from USDOJ. **EXHIBIT 3**, attached. USDOJ later referred that Complaint to the Department of



Interior. **EXHIBIT 4**, attached. I have not been advised that any action has been taken on that Complaint.

14. I currently plan to hunt and partake in as much outdoor activity in Montana that my disability and age allows as possible.

15. I have hunting trips planned with family, other friends, and I am currently willing and able to hunt in the 2021 Montana Bow Hunting Season beginning on September 4, 2021, because I am, or will otherwise be, eligible to hunt during the 2021 Montana archery season.

16. I have a disability permit issued by the State of Montana, through FWP, for certain activities relating to hunting but it does not allow me to use a crossbow during the Montana archery season.

17. I would be able to hunt on state land and I have offers by private property owners that would permit me many unique access opportunities due to my disability, which I am unable to pursue due to the State of Montana's position disallowing my use of a crossbow during the archery only season.

18. Money collected from license fees and ammunition purchases, which I pay, helps and even substantially funds Montana's archery program.

19. Currently, the only weapons that are permitted during archery season are "longbow, flatbow, recurve bow, compound bow, or any combination of these designs."

20. After trying to comply with the device modifications allowed by FWP I find they are insufficient to permit me to use approved equipment because as a result of my disability, I lack the necessary physical strength and capacity to perform required functions.

21. I have investigated both modified compound bows and crossbows.

22. I have discussed the requirements of each and my physical capacities with my physician.

23. I am not able to use even a modified compound bow because such bows require an ability to pull at a minimum 50 pounds to harvest effectively within 30 yards.

24. I am only able to pull 30 pounds or less without taking into consideration holding the bow vertically with the additional weight of the modifications permitted by FWP.

25. Based upon my doctor's physical examinations, understanding of my physical condition, capabilities and restrictions, my doctor concluded that I cannot operate even a modified compound bow, but that I could safely and effectively use a crossbow.

26. I can safely operate a crossbow because of a mechanical cranking device which requires only 5 pounds of torque to cock the crossbow.

27. As a result of my medical assessments, and in anticipation of the Montana archery season I purchased Mission Crossbow.

28. I purchased an archery permit for the 2021 Montana archery season.

29. I am aware of other similarly situated disabled hunters who were invited to meet with FWP.

30. I requested a meeting with the FWP Director to occur prior to what was the next regularly scheduled FWP Commission Meeting on August 20, 2021. That meeting did not occur.

31. I am willing to appear before FWP and testify regarding my situation and need for an accommodation.

32. The FWP Commission, and the FWP Director and staff, as well as the Montana Attorney General expressly denied my request for a reasonable accommodation because crossbows are not a legal method of hunting during the archery season, even though crossbows are legally allowed during the rifle hunting season.

33. I have been provided with no evidence that FWP's Commission, Director or staff undertook any inquiry into whether permitting me or other disabled archery hunters to use a crossbow to hunt would place any burden on FWP, the State, the game animal population, or on other hunters.



34. I have not been provided with any evidence from FWP that anyone at FWP has ever completed an inquiry into whether allowing me or other disabled hunters to hunt with a crossbow would change the nature of the archery program.

35. When FWP denied my request, it only indicated crossbows were not legal during archery season.

36. FWP further indicated an unwillingness to abate or address my concerns and suggested that I approach the Montana Legislature, which meets every other year, and which has repeatedly failed to pass an accommodation, despite what I believe to be ADA requirements.

37. There were no concerns expressed to me about my personal safety, the safety of other hunters, or animal safety.

38. There were no concerns expressed to me about safety in general.

39. I was provided with no evidence that any inquiry was made by FWP into whether allowing me or other disabled hunters to use a crossbow to hunt during archery season would place a burden on FWP; there was no discussion of how any such burden, properly conceived, or not, would burden FWP differently in archery season than it does in the already approved use in rifle season.

40. There was no inquiry as to why I, or any other disabled hunter, would choose the weapon most difficult to successfully operate during each of the two seasons mentioned - archery and rifle.

41. In denying my request for reasonable accommodation to use a crossbow to hunt big game during the scheduled archery season, no one at the FWP offered any alternatives to me that would allow me to participate in archery season in Montana.

42. FWP did not assess my ability to operate archery equipment accepted for use during archer season. Neither did FWP assess my ability to operate a crossbow.

43. FWP failed to mention and failed to adequately address issues raised by my medical doctor.

44. FWP offered no reasoning whatsoever with respect to the positions taken by my doctor, even though these were presented to FWP.

45. By not permitting me to use a crossbow during archery season, FWP is fully aware that its position seriously impacts my ability to hunt, or that my ability to hunt is severely restricted or even eliminated during the approved Montana archery season.

46. If I was able to participate in archery season, it would give me access to hunting dates and more opportunities to hunt considering my age and disability.

47. Archery hunting during Montana's regular archery season is a major life activity that I enjoyed for many years. However, I am no longer able to enjoy that activity since FWP has refused my request for a reasonable accommodation –

the use of a crossbow – so I can continue that activity that is so important to me and is part of my hunting heritage.

**I declare under penalty of perjury that the foregoing facts are true and correct and are within my personal knowledge.**

DATED this 20<sup>th</sup> day of August, 2021.

  
Bruno Friia, Declarant



Bruno Friia  
3011 American Way  
Missoula, MT 59808

Montana Fish Wildlife & Parks  
1420 East Sixth Avenue  
P.O. Box 200701  
Helena, MT 59620-0701

May 13, 2021

RE: Request for Reasonable Accommodation  
Reference: Dept. of Justice Disability Case # 64016-GHT  
Medical Diagnosis from Dr. L.Stayner, MD

VIA CERTIFIED MAIL, RETURN RECEIPT

Dear Commissioners,

I recently received a Permit to Modify Archery Equipment (PTMAE) due to a permanent disability I sustained in 2019. After purchasing and installing the recommended modifications to my bow, I realized this equipment will be completely ineffective in accommodating my disability and allowing me to successfully participate in the upcoming archery season.

I have consulted with my orthopaedic physician, Dr. L. Stayner, MD at Northern Rockies Orthopaedics in Missoula, MT, and he has come to the conclusion that the recommended modifications will in no way allow me to hunt with my permanent disability.

I have been an avid bow hunter from 1964 to 2019. At that time I sustained an injury to both of my shoulders which resulted in my permanent disability. I am now in no way able to hunt using a standard archery bow as a result of my ongoing disability. For some time now I have been unable to participate in a sport I have loved for many years.

With all that being said, I am requesting a reasonable accommodation so that I may utilize a crossbow for this and future archery seasons. Without this accommodation, I would experience undue hardship at being unable to participate in a major life activity. You currently have access to my PTMAE and all supporting documentation that was previously sent to you via my physician. Please refer to that material should the need arise.

My request for a reasonable accommodation falls fully under the purview of the Americans with Disability Act which defines a disability as: any physical or mental impairment that substantially limits one or more major life activities. Even after the installation of the recommended modifications, the current regulations and guidelines do not accommodate my permanent disability enough to allow me to archery hunt. Consequently a denial of this request for accommodation would violate the Americans with Disability Act.

I look forward to your response.

Sincerely,



Bruno Friia

FWP.MT.GOV



THE **OUTSIDE** IS IN US ALL.


Director's Office  
PO Box 200701  
Helena, MT 59620-0701  
(406) 444-3186  
Fax (406) 444-4952  
Ref: DO218-21  
August 9, 2021

Bruno Friia  
3011 American Way  
Missoula, MT 59808  
[bruno@teamlambrosera.com](mailto:bruno@teamlambrosera.com)

Dear Mr. Friia,

Thank you for your letter requesting a reasonable accommodation for use of a crossbow and for meeting with department staff to learn more about your specific needs. I have spoken to the Chair of the Fish and Wildlife Commission, and the Commission is going to place the issue of which accommodations are reasonable during the archery only season on their October Commission meeting agenda. They will be looking at the issue at a programmatic standpoint as they have received multiple accommodation requests similar to yours and feel the issue needs to be looked at on a broader level, with the potential that the broad resolution of the issue one way or another could have implications regarding your specific individual request. I realize that means you will not be able to use your crossbow during the archery season for 2021, but the Commission's decision in October will determine what accommodations will be allowed, and how a person may become certified to receive those accommodations, for you and others in future seasons.

Sincerely,



Hank Worsech  
Director

C: Fish and Wildlife Commission  
Kqyn Kuka, Diversity Coordinator  
Aimee Hawkaluk, Agency Legal Counsel  
Kim Howell, Human Resources Manager



U.S. Department of Justice

Civil Rights Division

Disability Rights Section  
950 Pennsylvania Avenue N.W.  
Washington, DC 20530

APR 29 2021

Bruno Friia  
10338 Royal Coachman Drive  
Missoula, MT 59808

Re: Your Civil Rights Division Report - 51318-WKG from the Disability Rights Section

Dear Bruno Friia:

You contacted the Department of Justice on February 2, 2021. After careful review of what you submitted, we have decided not to take any further action on your complaint.

What we did:

Team members from the Civil Rights Division reviewed the information you submitted. Based on our review, we have decided not to take any further action on your complaint. We receive several thousand reports of civil rights violations each year. We unfortunately do not have the resources to take direct action for every report.

Your report number was 51318-WKG.

What you can do:

We are not determining that your report lacks merit. Your issue may still be actionable by others - your state bar association or local legal aid office may be able to help.

To find a local office:

American Bar Association  
[www.findlegalhelp.org](http://www.findlegalhelp.org)  
(800) 285-2221

Legal Service Corporation (or Legal Aid Offices)  
[www.lsc.gov/find-legal-aid](http://www.lsc.gov/find-legal-aid)  
(202) 295-1500

How you have helped:

While we don't have the capacity to take on each individual report, your report can help us find issues affecting multiple people or communities. It also helps us understand emerging trends and topics.

Thank you for taking the time to contact the Department of Justice about your concerns. We regret we are not able to provide more help on this matter.

Sincerely,

U.S. Department of Justice  
Civil Rights Division





**U.S. Department of Justice**  
Civil Rights Division

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*Disability Rights Section - NYA  
950 Pennsylvania Avenue, NW  
Washington, DC 20530*

August 3, 2021

**Notice of Referral of Complaint for Appropriate Action**

To: Mr. John W. Burden, Director  
Office of Civil Rights  
Office of the Secretary  
U.S. Department of the Interior  
1849 C Street, N.W., Room 4309  
Washington, D.C. 20240

Bruno Friia  
10338 Royal Coachman Drive  
Missoula, MT 59808-7529

From: Disability Rights Section, Civil Rights Division, U.S. Department of Justice

Reference:

ID# 64016-GHT; regarding Montana Fish, Wildlife and Parks, Missoula, MT;  
received by DOJ on April 2, 2021

The Disability Rights Section has reviewed the enclosed complaint and determined that it raises issues that are more appropriately addressed by the U.S. Department of Interior under title II of the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act. We, therefore, are referring this complaint to that agency for appropriate action. This letter serves to notify that agency and the complainant of this referral. The Disability Rights Section will take no further action on this matter.

To check the status of the complaint, or to submit additional information, the complainant may contact the referral agency at the address above or at the following telephone number(s):

202-208-5693 (Voice)  
202-501-8572 (TTY)

If the agency has any questions or concerns about this referral or believes that it raises issues outside the agency's jurisdiction, please do not hesitate to contact the Department of Justice at the address and phone number attached hereto.

Bruce A. Fredrickson  
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*Attorneys for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

TIM ANDREW GARDIPEE; BRUNO  
FRIIA; BRAD MOLNAR; DAVID  
HELMERS, All Individually,

Plaintiffs,

vs.

STATE OF MONTANA; and  
MONTANA DEPARTMENT OF FISH  
WILDLIFE AND PARKS,

Defendants.

---

**DECLARATION OF  
Brad Molnar  
(28 U.S.C.A. § 1746(2))**

Pursuant to 28 U.S.C.A. § 1746(2), Brad Molnar, hereby declares under penalty of perjury that the following facts are true and are within my personal knowledge:

1. I am a citizen of the United States, a resident of the State of Montana, residing in Billings, Montana. I am of legal age and I am competent to be a witness. I am percipient and if called upon to testify could testify to the following, all of which are within my own personal knowledge, gained through personal experience and observation or by independent research that I have conducted.
2. I am a semi-retired businessperson. I also currently serve as an elected official – I am a Montana State Senator representing Yellowstone County in Senate District 28.
3. My disability is a result of a horse wreck about five years ago.
4. I cannot hold the weight of an unmodified common compound bow with my left arm fully extended or pull 25 pounds horizontally which are physical requirements necessary to operate a recurve or compound bow of hunting weight.
5. I helped my children and grandchildren complete the Montana Hunter and Bow hunter safety courses. I will soon start helping my great grandchildren, and step children/relatives take the courses. I passed the Bow Hunters' Education Course when taking it with my son in 2007.

6. I began actively hunting with a longbow when I was twelve years old and hunting with a recurve bow I got for Christmas when I was 15. This continued until about three years ago when I learned that blunt force trauma from the horse wreck was probably responsible for the dead muscles and nerves in my shoulder that have been replaced by fat deposits. According to my orthopedic surgeon, this will be progressive until my arm hangs limp by my side.

7. I sponsored SB 111 that was before the Legislature during the 67<sup>th</sup> Legislative Session in 2021. The underlying purpose of the Bill was to provide a reasonable accommodation for disabled hunters like me who cannot avail themselves of Montana's regular archery season since our disabilities prevent us from using archery equipment accepted by the State of Montana and the Montana Department of Fish, Wildlife and Parks ["FWP"]. I conducted a great deal of research into the subject matter of the Bill prior to its introduction. A true and correct copy SB 111 is attached hereto as **EXHIBIT 1**.

8. The Montana archery season is prized by many archery hunters. More than 53,000 archery licenses sold last season. Being 71 years of age and unable to use archery equipment authorized by the State of Montana and FWP, hunting during the milder climate during Montana's archery only season would help me, and others like me, a lot. Bow hunting with my children and grandchildren is why



I still want to bow hunt. But I cannot do that during Montana's regular archery season.

9. Under the current state of Montana law, all regular archery season advantages and benefits are reserved for able bodied archers or others who are able to utilize archery equipment authorized by FWP. Disabled archers who are physically unable to use authorized archery equipment are told they can hunt elk with a crossbow through the shoulder season in the August heat, during the rifle season, and during the shoulder season during the dead of winter. Oddly enough, able bodied archers can hunt antelope with a compound bow in August but disabled archers cannot hunt antelope with a crossbow in August.

10. I requested a reasonable accommodation under the Americans with Disabilities Act from the State of Montana through the FWP on June 26, 2021. A true and correct copy of my request is attached hereto as **EXHIBIT 2**.

11. My request for accommodation was denied by FWP letter dated August 9, 2021. **EXHIBIT 3**, attached.

12. I hunt as much as my various disabilities and age will allow. To facilitate this I go to the gym regularly and mitigate my disabilities by developing strength around affected areas. I drew a 2021 either sex archery tag for elk on the Missouri Breaks. FWP told me that because the only way I can use it is with a crossbow I should forgo this season while they try figure out how to do what other

states have seamlessly done for many years. **EX. 3**, attached. FWP's letter will hamstring me and many other disabled hunters while continuing to allow unfettered access to the archery season to unlimited able bodied archers. I bought my archery tag and applied for the drawing for the Breaks tag fully believing that SB 111 would pass since it presented the Legislature with a logical means to provide reasonable accommodations to disabled archery hunters, which would accordingly avoid issues with the ADA. Unfortunately, it did not. So now once again I cannot join my son and his son in bow camp on the Missouri during archery season; all because of a bad shoulder.

13. I also submitted an ADA Complaint to the United States Department of Justice ["USDOJ"]. USDOJ ultimately referred that Complaint to the Department of Interior. **EXHIBIT 4**, attached. I have not been advised that any action has been taken on that Complaint.

14. Money collected from license fees, archery equipment, and ammunition purchases, which I pay, funds the Montana programs that because of my disability, I cannot use.

15. After I was issued a permit to use modified archery equipment FWP sent me a brochure of what the Montana Bow Hunters' Assn. would allow. I found it interesting that FWP's response was not an FWP generated document, but rather was a brochure from the major opponent to SB 111.

16. I have familiarized myself with studies comparing efficacy of crossbows verses compound bows verses traditional archery equipment and biological response from Wisconsin (2020) which worked with 22 other states, Ohio (2015) and Wyoming (2019) and none have found a reason to deny anyone the option to use a crossbow let alone the disabled population.

17. The orthopedic surgeon that explained my shoulder deterioration to me and the one that signed my application for a disabled archers permit are part of the same Montana Orthopedics team that tried to rebuild me after the horse wreck.

18. FWP accepted my permit application without question.

19. Now FWP says I must forgo the use of my special permit while they re-consider the medical criterion and the accommodations to be allowed.

20. In hunting conditions crossbows and compounds are both generally effective to a maximum of 35 yard. Aficionados of both will push these limits. As I write this a 100 yard compound bow tournament is taking place in Minnesota. I am sure a similar competition for crossbows is taking place somewhere but these are not hunting conditions.

21. I have tried to pull a compound bow set at 25 pounds of pull. I cannot.

22. I have purchased a backup crossbow. It has a crank cocking device as the rope pull is becoming too difficult and is dangerous in snow.



23. For many, a crank cocking device is their only option.

24. I have asked to address the Commission to discuss having this issue before them at their August 20 meeting. I have been informed that my accommodation request letter was properly filed.

25. I am aware of other similarly situated disabled hunters who were invited to meet with FWP. They also are denied a meeting at the Commissions August 20<sup>th</sup> meeting.

26. I also requested that a meeting occur prior to what was the next regularly scheduled FWP Commission Meeting on August 20, 2021. That request was also denied.

27. I remain willing to appear before FWP Commission and testify regarding my situation and need for an accommodation.

28. FWP Commission Chairwoman and the FWP Director denied my request for a reasonable accommodation. They have never said why other than concern for unforeseen consequences.

29. Though FWP has been provided multiple studies they have never indicated that they included them in their decision making process.

30. FWP has never said why Montana's disabled community is treated as a hazard to proper game management if armed with crossbows.



31. Not permitting me to use a crossbow during archery season impacts my ability to hunt with my family during archery season and denies my grandchildren to opportunity to learn from me.

32. Being able to participate in archery season would give me access to hunting opportunities to match my age and disability. Able bodied archers and those that are physically able to use accepted archery equipment can hunt for five more weeks than disabled because of unexplained regulations and statutes.


33. Archery hunting during Montana's archery season has been an activity that I have looked forward to for many years. I am once again denied this activity because the FWP Commission has refused my request for a reasonable accommodation – the use of a crossbow – or to even discuss it in a timely manner.

34. In 1990, after a decade of trying to pass the ADA, the disabled community took their wheel chairs to the capitol, got out of their wheel chairs and crawled up the Capitol Building steps. President Bush said the nations disgrace was over and signed the Americans with Disability Act. Thirty one years later we are done crawling and ask the court to order the same accommodations as residents of 45 other states enjoy.

**-Signature on Following Page-**

I declare under penalty of perjury that the foregoing facts are true and correct and are within my personal knowledge.

DATED this 20<sup>th</sup> day of August, 2021.

  
Brad Molnar, Declarant

1 SENATE BILL NO. 111

2 INTRODUCED BY B. MOLNAR, B. BROWN, L. BREWSTER, D. KARY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CONDITIONAL HUNTING  
5 PERMITS FOR DISABLED PERSONS; CREATING A PERMIT TO HUNT WITH A CROSSBOW;  
6 ESTABLISHING CERTIFICATION, FEE, EDUCATION, HUNTER SURVEY, AND REPORTING PROVISIONS;  
7 ELIMINATING THE REQUIREMENT THAT PERMIT TO HUNT FROM A VEHICLE HOLDERS HAVE  
8 COMPANIONS; REVISING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-3-203, 87-1-301, 87-2-  
9 105, 87-2-803, AND 87-2-817, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
10 TERMINATION DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 NEW SECTION. Section 1. Permit to hunt with a crossbow -- reporting. (1) The department may  
15 issue a permit to hunt with a crossbow, on a form prescribed by the department, if the person applying for the  
16 permit meets the requirements of subsection (2). A person issued a permit to hunt with a crossbow may do so  
17 during any season in which archery is allowed subject to the provisions of subsection (3) and with the purchase  
18 of the necessary licenses and permits.

19 (2) (a) A person qualifies for a permit to hunt with a crossbow, on payment of a fee of \$10, if the  
20 person is certified by a licensed physician, as defined in 87-2-803, ~~or a licensed physician assistant, as defined~~  
21 ~~in 37-20-404~~, to have a permanent condition that severely limits the person's ability to draw and hold a long  
22 bow, a recurve bow, or a compound bow of sufficient draw weight to hunt a game animal, and the person:

23 (i) purchased a Class A-2 special bow and arrow license in the past 3 years; or

24 (ii) completed a ~~bowhunter~~ CROSSBOW education course pursuant to 87-2-105 at least 1 year prior to  
25 applying for a permit to hunt with a crossbow.

26 (b) Certification under this subsection (2) must be on a form prescribed by the department AND SIGNED  
27 BY THE PHYSICIAN.

28 (c) The department or a person who disagrees with a certification of eligibility for a permit to hunt with

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*Attorneys for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

TIM ANDREW GARDIPEE; BRUNO  
FRIIA; BRAD MOLNAR; DAVID  
HELMERS, All Individually,

Plaintiffs,

vs.

STATE OF MONTANA; and  
MONTANA DEPARTMENT OF FISH  
WILDLIFE AND PARKS,

Defendants.

---

**DECLARATION OF  
David Helmers  
(28 U.S.C.A. § 1746(2))**



Pursuant to 28 U.S.C.A. § 1746(2), David Helmers, hereby declares under penalty of perjury that the following facts are true and are within my personal knowledge:

1. I am a citizen of the United States, a resident of the State of Montana residing in Plentywood, Montana. I am of legal age and I am competent to be a witness. I am percipient and if called upon to testify could testify to the following, all of which are within my own personal knowledge.

2. I am retired. I am a former federal officer and a 100% disabled veteran.

3. My disability is a result of two cervical spine surgeries (four level with metal plate and screws, front and rear), one rotator cuff surgery, one low back surgery, one knee replacement, one knee scope and a dorsal column stimulator implant. I have also had carpal tunnel surgery on both hands.

4. I am under the regular care of an orthopedic medical doctor, a neurosurgeon and Primary Care Physician licensed to practice in the State of Montana and the Veterans Administration.

5. I cannot pull more than 8 pounds vertically or horizontally which are physical requirements necessary to operate a recurve or compound bow.

6. I completed my Ohio hunter safety course in 1968 and later completed my Indiana hunter safety course education while training to be a 4-H Youth

firearms, archery, shotgun and muzzle loader instructor at Perdue University. I am also a trained NRA certified instructor. I was an exempt Montana hunter education since I completed it in another State.

7. I have successfully completed the International CROSSBOW Education Course.

8. I began actively using a recurve bow in 1968 for hunting.

9. In addition to an early start and a subsequently longer hunting period, hunting during the opening archery season offers unique opportunities and benefits. I'm 68 years of age and hunting in a more favorable climate during archery only season assists in my disability and age. In addition, the hunting population at large is smaller during the Montana Archery season.

10. Because of these advantages, which are offered to all other Montana hunters wishing to participate, including my normal hunting companions and my family; and because of my health and desire to hunt during the designated Montana Archery only Bow Hunting season is consistent with the Montana hunting heritage and with my history of bow hunting.

11. I requested a reasonable accommodation under the Americans with Disabilities Act from the State of Montana through the Montana Department of Fish Wildlife and Parks ["FWP"] in 2011 and on May 26, 2021. My 2021 request

was sent by certified mail, return receipt requested. I know FWP received the request since I received the return receipt verifying delivery.

12. My request for accommodation was denied by FWP letter dated August 9, 2021. A true and correct copy of FWP's letter is attached as

**EXHIBIT 1.**

13. I also submitted an ADA Complaint to the United States Department of Justice ["USDOJ"]. USDOJ ultimately referred that Complaint to the Department of Interior. **EXHIBIT 2**, attached. I have not been advised that any action has been taken on that Complaint.

14. I currently plan to hunt and partake in as much outdoor activity as possible in Montana that my disability and age allows.

15. I have hunting trips planned with family, other friends, and I am currently willing and able to hunt in the 2021 Montana Bow Hunting Season beginning on September 4, 2021, because I am, or will otherwise be, eligible to hunt during the 2021 Montana archery season.

16. I have a Permit to Modify Archery Equipment issued by the State of Montana, through FWP, for certain activities relating to hunting but it does not allow me to use a crossbow during the Montana archery season or fishing season.

17. I would be able to hunt on state land and I have offers by private property owners that would permit me many unique access opportunities due to my

disability, which I am unable to pursue due to the State of Montana's position disallowing my use of a crossbow during the archery only season and fishing season.

18. Money collected from license fees and ammunition purchases, which I pay, helps and even substantially funds Montana's archery program. Federal funds given to the states under the "Pittman-Robertson Act" of 1937 include funding for crossbows.

19. Currently, the only weapons that are permitted during archery season are "longbow, flatbow, recurve bow, compound bow, or any combination of these designs."

20. After purchasing and trying to comply with the device modifications allowed by FWP, I find they are insufficient to permit me to use approved equipment. Because of my disability, I lack the necessary physical strength and capacity to perform required functions. After fifty years of hunting and instruction, I find the commercial equipment available that is approved by FWP to be unsafe without expensive modifications that I cannot afford.

21. I have investigated both modified compound bows and cross bows.

22. I have discussed the requirements of each and my physical capacities with my physician.



23. Based upon my doctor's physical examinations, understanding of my physical condition, capabilities and restrictions, my doctor concluded that I cannot operate even a modified compound bow, but that I could safely and effectively use a crossbow.

24. I am not able to use even a modified compound bow because such bows require an ability to pull at a minimum 50 pounds to harvest effectively within 30 yards.

25. I am only able to pull 8 pounds or less without taking into consideration holding the bow vertically with the additional weight of the modifications permitted by FWP.

26. I can safely operate a crossbow because of a mechanical cranking device which requires only 5 pounds of torque to cock the crossbow. Because of the horizontal position of the bow, I am able to use modified rest to assist me in holding the equipment.

27. As a result of my medical assessments and in anticipation of the Montana regular archery season I own a Excaliber "RECURVE" Crossbow.

28. I intend on purchasing an archery permit for the 2021 Montana archery season if permission to use a crossbow is granted.

29. I met with Ms. Kuka, an FWP attorney, Paralegal and an FWP Human Resources person on June 6, 2021 to discuss my concerns. I was not previously

notified of FWP counsel attending the meeting until the meeting was held. I was not notified that I could have represented counsel of my own.

30. I am aware of other similarly situated disabled hunters who were invited to meet with FWP.

31. I also requested a meeting with the FWP Director to occur prior to what was the next regularly scheduled FWP Commission Meeting on August 20, 2021. That meeting did not occur.

32. I am willing to appear before FWP and testify regarding my situation and need for an accommodation.

33. The FWP Commission, and the FWP Director and staff, as well as the Montana Attorney General expressly denied my request for a reasonable accommodation because crossbows are not a legal method of hunting during the archery season, even though crossbows are legally allowed during the rifle hunting season.

34. I have been provided with no evidence that FWP's Commission, Director or staff undertook any inquiry into whether permitting me or other disabled archery hunters to use a crossbow to hunt would place any burden or additional cost on FWP, the State, the game animal population, or on other hunters.

35. I have not been provided with any evidence from FWP that anyone at FWP has ever completed an inquiry into whether allowing me or other disabled hunters to hunt with a crossbow would change the nature of the archery program.

36. FWP further indicated an unwillingness to abate or address my concerns and suggested that I approach the Montana Legislature, which meets every other year, and which has repeatedly failed to pass an accommodation, despite what I believe to be ADA requirements.

37. There were no concerns expressed to me about my personal safety, the safety of other hunters, or animal safety.

38. There were no concerns expressed to me about safety in general.

39. I was provided with no evidence that any inquiry was made by FWP into whether allowing me or other disabled hunters to use a crossbow to hunt during archery season would place a burden on FWP; there was no discussion of how any such burden, properly conceived, or not, would burden FWP differently in archery season than it does in the already approved use in rifle season.

40. There was no inquiry as to why I, or any other disabled hunter, would choose the weapon most difficult to successfully operate during each of the two seasons mentioned - archery and rifle.

41. In denying my request for reasonable accommodation to use a crossbow to hunt big game during the scheduled archery season, no one at FWP

offered any alternatives to me that would allow me to participate in archery season in Montana.

42. FWP did not assess my ability to operate archery equipment accepted for use during archer season. Neither did FWP assess my ability to operate a crossbow.

43. FWP failed to mention and failed to adequately address issues raised by my medical doctor.

44. FWP offered no reasoning whatsoever with respect to the positions taken by my doctor, even though these were presented to FWP.

45. By not permitting me to use a crossbow during archery season, FWP is fully aware that its position seriously impacts my ability to hunt, or that my ability to hunt is severely restricted or even eliminated during the approved Montana archery season.


46. If I was able to participate in archery season, it would give me access to hunting dates and more opportunities to hunt considering my age and disability.

47. Archery hunting during Montana's regular archery season is a major life activity that I enjoyed for many years. However, I am no longer able to enjoy that activity since FWP has refused my request for a reasonable accommodation – the use of a crossbow – so I can continue that activity that is so important to me and is part of my hunting heritage.



**I declare under penalty of perjury that the foregoing facts are true and correct and are within my personal knowledge.**

DATED this 20<sup>th</sup> day of August, 2021.

  
David Helmers, Declarant

FWP.MT.GOV



THE **OUTSIDE** IS IN US ALL.

Director's Office  
PO Box 200701  
Helena, MT 59620-0701  
(406) 444-3186  
Fax (406) 444-4952  
Ref: DO220-21  
August 9, 2021

David Helmers  
PO Box 464  
Plentywood, MT 59254

Dear Mr. Helmers,

Thank you for your letter requesting a reasonable accommodation for use of a crossbow and for meeting with department staff to learn more about your specific needs. I have spoken to the Chair of the Fish and Wildlife Commission, and the Commission is going to place the issue of which accommodations are reasonable during the archery only season on their October Commission meeting agenda. They will be looking at the issue at a programmatic standpoint as they have received multiple accommodation requests similar to yours and feel the issue needs to be looked at on a broader level, with the potential that the broad resolution of the issue one way or another could have implications regarding your specific individual request. I realize that means you will not be able to use your crossbow during the archery season for 2021, but the Commission's decision in October will determine what accommodations will be allowed, and how a person may become certified to receive those accommodations, for you and others in future seasons.

Sincerely,

  
Hank Worsech  
Director

C: Fish and Wildlife Commission  
Kqyn Kuka, Diversity Coordinator  
Aimee Hawkaluk, Agency Legal Counsel  
Kim Howell, Human Resources Manager



**U.S. Department of Justice**  
Civil Rights Division

*Disability Rights Section - NYA*  
*950 Pennsylvania Avenue, NW*  
*Washington, DC 20530*

August 2, 2021

**Notice of Referral of Complaint for Appropriate Action**

To: Mr. John W. Burden, Director  
Office of Civil Rights  
Office of the Secretary  
U.S. Department of the Interior  
1849 C Street, N.W., Room 4309  
Washington, D.C. 20240

David Helmers  
4649 Highway 16 S  
Plentywood, MT 59254

From: Disability Rights Section, Civil Rights Division, U.S. Department of Justice

Reference:

ID# 62781-CHG; regarding State of Montana Fish, Wildlife and Parks,  
Helena, MT; received by DOJ on March 28, 2021

The Disability Rights Section has reviewed the enclosed complaint and determined that it raises issues that are more appropriately addressed by the U.S. Department of Interior under title II of the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act. We, therefore, are referring this complaint to that agency for appropriate action. This letter serves to notify that agency and the complainant of this referral. The Disability Rights Section will take no further action on this matter.

To check the status of the complaint, or to submit additional information, the complainant may contact the referral agency at the address above or at the following telephone number(s):

202-208-5693 (Voice)  
202-501-8572 (TTY)

If the agency has any questions or concerns about this referral or believes that it raises issues outside the agency's jurisdiction, please do not hesitate to contact the Department of Justice at the address and phone number attached hereto.

DJ# 204-44-0

1 a crossbow submitted pursuant to this subsection (2) may request a review by the board of medical examiners  
2 pursuant to 37-3-203.

3 (3) A person issued a permit to hunt with a crossbow may use a scope only if the scope is not battery  
4 assisted and has a magnification of no more than four times. While hunting, a crossbow may not be equipped  
5 with a mechanical arrow or bolt drop compensation device, including but not limited to jack plates.

6 (4) A person issued a permit to hunt with a crossbow is automatically entitled to a permit to hunt with  
7 a crossbow for subsequent license years if the criteria for obtaining a permit do not change.

8 (5) A person issued a permit to hunt with a crossbow shall complete hunter surveys issued by the  
9 department. At a minimum, the department shall survey each person regarding the season or seasons in which  
10 the person used the permit and the person's success rate, including the number of shots the person attempted,  
11 the estimated range of the shots, and whether the person harvested, wounded, or lost an animal as a result.

12 (6) The department shall report, in accordance with 5-11-210, to the environmental quality council  
13 established by 5-16-101, on the number of persons issued a permit to hunt with a crossbow in the previous  
14 license year, the certified conditions that qualified the persons to obtain a permit, and the results of the hunter  
15 surveys received pursuant to subsection (5).

16

17 **Section 2.** Section 37-3-203, MCA, is amended to read:

18 **"37-3-203. Powers and duties -- rulemaking authority.** (1) The board may:

19 (a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1  
20 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency  
21 care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for  
22 emergency care providers with an endorsement to provide community-integrated health care must address the  
23 scope of practice, competency requirements, and educational requirements.

24 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers  
25 and duties vested in the board;

26 (c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter  
27 as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers  
28 licensed by the board. The board also may assist the county attorneys of this state in the prosecution of



1 persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection  
2 (1)(c).

3 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle  
4 as provided in 87-2-803(11) and certifications of conditions of eligibility for a permit to hunt with a crossbow as  
5 provided in [section 1]; and

6 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by  
7 increasing license fees as necessary.

8 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees  
9 who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by  
10 habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by  
11 mental illness or chronic physical illness.

12 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical  
13 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to  
14 enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a  
15 qualified treatment program outside the state unless the board finds that there is no qualified treatment program  
16 in this state.

17 (3) (a) The board shall report annually on the number and types of complaints it has received  
18 involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana  
19 for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

20 (i) the number of complaints received by the board pursuant to 37-1-308;

21 (ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-  
22 307;

23 (iii) the general nature of the complaints;

24 (iv) the number of investigations conducted into physician practices in providing written certification;

25 and

26 (v) the number of physicians disciplined by the board for their practices in providing written  
27 certification for the use of marijuana for a debilitating medical condition.

28 (b) Except as provided in subsection (3)(c), the report may not contain individual identifying

1 information regarding the physicians about whom the board received complaints.

2 (c) For each physician against whom the board takes disciplinary action related to the physician's  
3 practices in providing written certification for the use of marijuana for a debilitating medical condition, the report  
4 must include:

5 (i) the name of the physician;

6 (ii) the general results of the investigation of the physician's practices; and

7 (iii) the disciplinary action taken against the physician.

8 (d) The board shall provide the report to the children, families, health, and human services interim  
9 committee by August 1 of each year and shall make a copy of the report available on the board's website.

10 (4) The board may enter into agreements with other states for the purposes of mutual recognition of  
11 licensing standards and licensing of physicians and emergency care providers from other states under the  
12 terms of a mutual recognition agreement."

13

14 **Section 3.** Section 87-1-301, MCA, is amended to read:

15 **"87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the  
16 commission:

17 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,  
18 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment  
19 of all other responsibilities of the department related to fish and wildlife as provided by law;

20 (b) shall establish the hunting, fishing, and trapping rules of the department;

21 (c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department  
22 governing the use of lands owned or controlled by the department and waters under the jurisdiction of the  
23 department;

24 (d) must have the power within the department to establish wildlife refuges and bird and game  
25 preserves;

26 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as  
27 provided in 23-1-111 and 87-1-209(2) and (4);

28 (f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its

1 transmittal to the office of budget and program planning;

2 (g) except as provided in 23-1-111, shall review and approve construction projects that have an  
3 estimated cost of more than \$1,000 but less than \$5,000;

4 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as  
5 provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates  
6 as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall  
7 consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a  
8 particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or  
9 documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within  
10 the particular hunting district where a restriction on elk hunting on public property is proposed.

11 (i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

12 (j) shall comply with, adopt policies that comply with, and ensure the department implements in each  
13 region the provisions of state wildlife management plans adopted following an environmental review conducted  
14 pursuant to Title 75, chapter 1, parts 1 through 3.

15 (2) ~~The~~ Except as provided in [section 1], the commission may adopt rules regarding the use and type  
16 of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable  
17 standards as technical innovations in archery equipment change.

18 (3) The commission may adopt rules regarding the establishment of special licenses or permits,  
19 seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or  
20 enhance hunting by Montana's youth and persons with disabilities.

21 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

22 (i) separate deer licenses from nonresident elk combination licenses;

23 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without  
24 the deer tag;

25 (iii) condition the use of the deer licenses; and

26 (iv) limit the number of licenses sold.

27 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary  
28 and appropriate to regulate the harvest by nonresident big game combination license holders:



- 1 (i) for the biologically sound management of big game populations of elk, deer, and antelope;
- 2 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and
- 3 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-
- 4 321 through 87-1-325.

5 (5) (a) Subject to the provisions of subsection (5)(b), the commission may adopt rules to:

- 6 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and
- 7 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
- 8 districts.

9 (b) The commission shall adopt rules for the use of and set quotas for the sale of Class D-4  
10 nonresident hound handler licenses by hunting district, portions of a hunting district, group of districts, or  
11 administrative regions. However, no more than two Class D-4 licenses may be issued in any one hunting  
12 district per license year.

13 (c) The commission shall consider, but is not limited to consideration of, the following factors:

- 14 (i) harvest of lions by resident and nonresident hunters;
- 15 (ii) history of quota overruns;
- 16 (iii) composition, including age and sex, of the lion harvest;
- 17 (iv) historical outfitter use;
- 18 (v) conflicts among hunter groups;
- 19 (vi) availability of public and private lands; and
- 20 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

21 (6) The commission may not regulate the use or possession of firearms, firearm accessories, or  
22 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

23 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the  
24 establishment of special archery seasons;

25 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms,  
26 including bows and arrows, traditional handguns, and muzzleloading rifles;

27 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

28 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or



1 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

2 (7) Pursuant to 23-1-111, the commission does not oversee department activities related to the  
3 administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic  
4 sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant  
5 to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

6  
7 **SECTION 4. SECTION 87-2-105, MCA, IS AMENDED TO READ:**

8 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to  
9 87-2-805(4) or a person who has been issued an apprentice hunting certificate pursuant to 87-2-810, a hunting  
10 license may not be issued to a person born after January 1, 1985, unless the person authorized to issue the  
11 license determines proof of completion of:

12 (a) a Montana hunter safety and education course established in subsection (4) or (6);

13 (b) a hunter safety course in any other state or province; or

14 (c) a Montana hunter safety and education course that qualifies the person for a provisional certificate  
15 as provided in 87-2-126.

16 (2) A hunting license may not be issued to a member of the regular armed forces of the United States  
17 or to a member of the armed forces of a foreign government attached to the armed forces of the United States  
18 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to  
19 a member's spouse or dependent, as defined in 15-30-2115, who resides in the member's household, unless  
20 the person authorized to issue the license determines proof of completion of a hunter safety course approved  
21 by the department or a hunter safety course in any state or province.

22 (3) A bow and arrow license may not be issued to a resident or nonresident unless the person  
23 authorized to issue the license receives an archery license issued for a prior hunting season or determines  
24 proof of completion of a bowhunter education course from the national bowhunter education foundation or any  
25 other bowhunter education program approved by the department. Neither the department nor the license agent  
26 is required to provide records of past archery license purchases. As part of the department's bow and arrow  
27 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

28 (4) The department shall provide for a hunter safety and education course that includes instruction in

1 the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one  
2 of its objectives the promotion of hunter safety and education. The department may designate as an instructor  
3 any person it finds to be competent to give instructions in hunter safety and education, including the handling of  
4 firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from  
5 Montana's hunter safety and education course to a person successfully completing the course.

6 (5) The department shall provide for a course of instruction from the national bowhunter education  
7 foundation or any other bowhunter education program approved by the department and for that purpose may  
8 cooperate with any reputable organization having as one of its objectives the promotion of safety in the  
9 handling of bow hunting tackle. The department may designate as an instructor any person it finds to be  
10 competent to give bowhunter education instruction. A person appointed shall give the course of instruction and  
11 shall issue a certificate of completion to a person successfully completing the course.

12 (6) The department may develop an adult hunter safety and education course.

13 (7) A permit to hunt with a crossbow may not be issued pursuant to [section 1] unless the department  
14 receives an archery license issued for 1 of the past 3 years or determines proof of completion of a crossbow  
15 education course from a crossbow education program approved by the department. Neither the department nor  
16 a license agent is required to provide records of past archery license purchases. As part of the department's  
17 licensing procedures, the department shall notify the public regarding crossbow education requirements.

18 ~~(7)~~ (8) The department may adopt rules regarding how a person authorized to issue a license  
19 determines proof of completion of a required course."  
20

21 **Section 5.** Section 87-2-803, MCA, is amended to read:

22 **"87-2-803. Licenses for persons with disabilities -- definitions.** (1) Persons with disabilities who  
23 are residents of Montana not residing in an institution and are certified as disabled as prescribed by  
24 departmental rule may purchase the following for one-half the cost:

- 25 (a) a Class A fishing license;  
26 (b) a Class A-1 upland game bird license;  
27 (c) a Class A-3 deer A tag;  
28 (d) a Class A-5 elk tag.

1 (2) A person who has purchased a wildlife conservation license and a resident fishing license, game  
2 bird license, deer tag, or elk tag for a particular license year and who is subsequently certified as disabled is  
3 entitled to a refund for one-half of the cost of the fishing license, game bird license, deer tag, or elk tag  
4 previously purchased for that license year.

5 (3) A person who is certified as disabled pursuant to subsection (4) and who was issued a permit to  
6 hunt from a vehicle for license year 2014 or a subsequent license year is automatically entitled to a permit to  
7 hunt from a vehicle for subsequent license years if the criteria for obtaining a permit do not change.

8 (4) A person may be certified as disabled by the department and issued a permit to hunt from a  
9 vehicle, on a form prescribed by the department, if the person meets the requirements of subsection (9).

10 (5) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection  
11 (5) as a permitholder, may hunt by shooting a firearm from:

12 (i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a  
13 state or federal highway;

14 (ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-  
15 way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public  
16 highway, where hunting is permitted; or

17 (iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is  
18 permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway  
19 vehicle or snowmobile is marked as described in subsection (5)(d) of this section.

20 (b) This subsection (5) does not allow a permitholder to shoot across the roadway of any public  
21 highway or to hunt on private property without permission of the landowner.

22 (c) ~~A permitholder must have a companion to assist in immediately dressing any killed game animal.~~  
23 ~~The companion may also~~ assist the permitholder by hunting a game animal that has been wounded by the  
24 permitholder when the permitholder is unable to pursue and kill the wounded game animal.

25 (d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-  
26 colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as  
27 prescribed by the department.

28 (6) (a) A resident of Montana who is certified by the department as experiencing blindness, as



1 defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of  
2 \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by  
3 department rule. A wildlife conservation license is not a prerequisite to licensure under this subsection (6)(a).

4 (b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301,  
5 may be issued regular resident deer and elk licenses, in the manner provided in subsection (1) of this section,  
6 and must be accompanied by a companion, as provided in subsection (5)(c) of this section.

7 (7) The department shall adopt rules to establish the qualifications that a person must meet to be a  
8 companion and may adopt rules to establish when a companion can be a designated shooter for a disabled  
9 person.

10 (8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers  
11 to a person experiencing a condition medically determined to be permanent and substantial and resulting in  
12 significant impairment of the person's functional ability.

13 (9) (a) A person qualifies for a permit to hunt from a vehicle if the person is certified by a licensed  
14 physician, a licensed chiropractor, a licensed physician assistant, or an advanced practice registered nurse to  
15 be nonambulatory, to have substantially impaired mobility, or to have a documented genetic condition that limits  
16 the person's ability to walk or carry significant weight for long distances.

17 (b) For the purposes of this subsection (9), the following definitions apply:

18 (i) "Advanced practice registered nurse" means a registered professional nurse who has completed  
19 educational requirements related to the nurse's specific practice role, as specified by the board of nursing  
20 pursuant to 37-8-202, in addition to completing basic nursing education.

21 (ii) "Chiropractor" means a person who has a valid license to practice chiropractic in this state pursuant  
22 to Title 37, chapter 12, part 3.

23 (iii) "Documented genetic condition" means a diagnosis derived from genetic testing and confirmed by  
24 a licensed physician.

25 (iv) "Nonambulatory" means permanently, physically reliant on a wheelchair or a similar compensatory  
26 appliance or device for mobility.

27 (v) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy  
28 and who has a valid license to practice medicine or osteopathic medicine in this state.



1 (vi) "Physician assistant" has the meaning provided in 37-20-401.

2 (vii) "Substantially impaired mobility" means virtual inability to move on foot due to permanent physical  
3 reliance on crutches, canes, prosthetic appliances, or similar compensatory appliances or devices.

4 (10) Certification under subsection (9) must be on a form provided by the department.

5 (11) The department or a person who disagrees with a determination of disability or eligibility for a  
6 permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203."

7

8 **Section 6.** Section 87-2-817, MCA, is amended to read:

9 **"87-2-817. Licenses for service members.** (1) A veteran or a disabled member of the armed forces  
10 who meets the qualifications in 87-2-803(9) or [section 1] as a result of a combat-connected injury may apply at  
11 a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A  
12 tag, a Class B-8 deer B tag, and a special antelope license made available under 87-2-506(3) for one-half of  
13 the license fee. Licenses issued to veterans or disabled members of the armed forces under this part do not  
14 count against the number of special antelope licenses reserved for people with permanent disabilities, as  
15 provided in 87-2-706.

16 (2) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as  
17 provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a  
18 contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months  
19 outside of the state, upon request and upon presentation of the documentation described in subsection (2)(c),  
20 must be issued a free resident wildlife conservation license and a Class A resident fishing license or a Class  
21 AAA resident combination sports license, which may not include a Class A-6 black bear tag, upon payment of  
22 the resident base hunting license fee in 87-2-116 and the purchase of the resident aquatic invasive species  
23 prevention pass pursuant to 87-2-130, in the license year that the member returns from military service or in the  
24 year following the member's return, based on the member's election, and in any of the 4 years after the  
25 member's election.

26 (b) If a Montana resident who meets the service qualifications of subsection (2)(a) is subsequently  
27 required to serve another 2 months or more outside of the state under the same service qualifications, the  
28 entitlement to free licenses provided pursuant to subsection (2)(a) resets and the member may start a new 5-

1 year entitlement period beginning in the license year that the member returns from the subsequent military  
2 service or in the year following the member's return, based on the member's election. There is no limit on the  
3 number of times the entitlement period may be reset if the Montana resident repeatedly meets the service  
4 qualifications of subsection (2)(a).

5 (c) To be eligible for the free licenses provided for in subsection (2)(a) or (2)(b), an applicant shall, in  
6 addition to the written application and proof of residency required in 87-2-202(1), provide to any regional  
7 department office or to the department headquarters in Helena, by mail or in person, the member's DD form  
8 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing  
9 documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C.  
10 101(a)(13).

11 (d) The department's general license account must be reimbursed by a quarterly transfer of funds  
12 from the general fund to the general license account for costs associated with the free licenses granted  
13 pursuant to this subsection (2) during the preceding calendar quarter. Reimbursement costs must be  
14 designated as license revenue.

15 (3) A member of the armed forces who forfeited a license or permit issued through a drawing as a  
16 result of deployment outside of the continental United States in support of a contingency operation as provided  
17 in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the  
18 year of the member's return from deployment or in the first year that the license or permit is made available  
19 after the member's return."  
20

21 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an  
22 integral part of Title 87, chapter 2, part 8, and the provisions of Title 87, chapter 2, part 8, apply to [section 1].  
23

24 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.  
25

26 NEW SECTION. Section 9. Termination. [This act] terminates February 29, 2024.  
27

- END -

Brad Molnar  
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Laurel, Mt. 59044  
[brad.molnar@yahoo.com](mailto:brad.molnar@yahoo.com)  
(406) 794-5982

Montana Fish Wildlife and Parks  
1420 East Sixth Ave.  
PO Box 200701  
Helena, Mt. 59620-0701

June 26, 2021

RE: Request for use of bow style that addresses my handicap      VIA CERTIFIED MAIL, RETURN RECEIPT  
Dept. of Justice ADA Division case # requested  
Reference medical information provided for Permit to Modify Archery Equipment

Dear Commissioners,

Several years ago FWP issued a permit allowing me to use modified archery equipment due to a progressive shoulder condition. You have this in your files. Because of my injury I lost the ability to draw and release my recurve bow. I have been a longbow and recurve bow hunter for about 60 years.

I tried a compound bow but could not hold it up as it was too heavy. Your "allowed" (allowed by lobbyists) solution was a bow that was even heavier. The fact that it could be supported on a brace or hung from a tree is of little relevance. Also, the compound took two or more people to draw and lock it. Perhaps this is why the law also requires I be babysat by a companion while hunting. It makes the Draw-loc doable.

This is not permissible under the Americans with Disability Act or MCA 49-2-101 (19) and 49-2-308. Nor is your printing of sweeping exclusions for disabled people. Rather you are mandated to be inclusive under all but dire and specific circumstances that lead to specific exclusions. None of which apply here.

That being said I am asking for a reasonable accommodation to overcome my disability. As is allowed in 35 states, and all states and provinces surrounding Montana, I am asking that I, and all others similarly situated and aggrieved, be allowed to chose a crossbow during archery season if that is the best modification to address our disability .

Also, you issued me an either sex elk tag for the Missouri Breaks. Of course I can't use it without a crossbow. The Breaks are mainly federal property and the ADA is a federal law. To maintain your bias against me and the balance of the disabled population, based on style of bow necessitated is to deny reasonable access to public land, public wildlife, hunting rights guaranteed under the Montana Constitution Art 9 Sec 7, and civil rights under the referenced MCA and the ADA.

Thank you for your consideration,

Brad Molnar



FWP.MT.GOV



THE **OUTSIDE** IS IN US ALL.


Director's Office  
PO Box 200701  
Helena, MT 59620-0701  
(406) 444-3186  
Fax (406) 444-4952  
Ref: DO219-21  
August 9, 2021

Brad Molnar  
PO Box 517  
Laurel, MT 59044  
[brad.molner@yahoo.com](mailto:brad.molner@yahoo.com)

Dear Mr. Molnar,

Thank you for your letter requesting a reasonable accommodation for use of a crossbow and for meeting with department staff to learn more about your specific needs. I have spoken to the Chair of the Fish and Wildlife Commission, and the Commission is going to place the issue of which accommodations are reasonable during the archery only season on their October Commission meeting agenda. They will be looking at the issue at a programmatic standpoint as they have received multiple accommodation requests similar to yours and feel the issue needs to be looked at on a broader level, with the potential that the broad resolution of the issue one way or another could have implications regarding your specific individual request. I realize that means you will not be able to use your crossbow during the archery season for 2021, but the Commission's decision in October will determine what accommodations will be allowed, and how a person may become certified to receive those accommodations, for you and others in future seasons.

Sincerely,

  
Hank Worsch  
Director

C: Fish and Wildlife Commission  
Kqyn Kuka, Diversity Coordinator  
Aimee Hawkaluk, Agency Legal Counsel  
Kim Howell, Human Resources Manager





**U.S. Department of Justice**  
Civil Rights Division

*Disability Rights Section - NYA  
950 Pennsylvania Avenue, NW  
Washington, DC 20530*

July 28, 2021

**Notice of Referral of Complaint for Appropriate Action**

To: Mr. John W. Burden, Director  
Office of Civil Rights  
Office of the Secretary  
U.S. Department of the Interior  
1849 C Street, N.W., Room 4309  
Washington, D.C. 20240

Brad Molnar  
P.O. Box 517  
Laurel, MT 59044

From: Disability Rights Section, Civil Rights Division, U.S. Department of Justice

Reference:

ID# 82147-SNJ; regarding State of Montana; received by DOJ on  
June 25, 2021

The Disability Rights Section has reviewed the enclosed complaint and determined that it raises issues that are more appropriately addressed by the U.S. Department of Interior under title II of the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act. We, therefore, are referring this complaint to that agency for appropriate action. This letter serves to notify that agency and the complainant of this referral. The Disability Rights Section will take no further action on this matter.

To check the status of the complaint, or to submit additional information, the complainant may contact the referral agency at the address above or at the following telephone number(s):

202-208-5693 (Voice)  
202-501-8572 (TTY)

If the agency has any questions or concerns about this referral or believes that it raises issues outside the agency's jurisdiction, please do not hesitate to contact the Department of Justice at the address and phone number attached hereto.

DJ# 204-44-0