

December 29, 2019

Dear State Librarian Stapp, Vice President for Research and Creative Scholarship Whittenburg, Library Commission Chair Kish, members of the Commission, and Program Coordinator Maxell:

As the Program Botanist for the Montana Natural Heritage Program (MTNHP or Program), this letter addresses my perspective regarding the Administration of the Program, the proposal put forth by the Montana State Library (MSL), and the December 11th library commission meeting.

In this letter I write about the Program administration and directions, staff concerns to changing the Program's administration, how resolution may be found, and lastly, I address a few specific questions raised by some library commissioners on December 11th.

MSL Proposal

I found the proposal put forth to the MSL Commission on December 11 to have many merits:

- While MSL has had the statutory responsibility since 1985 to operate the MTNHP, this is the first time that a State Librarian has wanted to be responsible for the long-term stability of the Program, and not treat the Program as something they don't know how to administer.
- The proposal keeps the Program administratively intact which is necessary to protect MTNHP's product which is 'information on Montana's flora, fauna, and biological communities'. To understand why this is critical, refer to my November 3, 2019 letter.
- It acknowledges that the stability of the Program is increasingly reliant on external soft money. This reliance increases the risk of letting soft money rather than strategic decisions direct the Program and that reliance also contributes to internal stressors on staff workloads.
- It continues the need to fund the Program with core, supplemental core, and project dollars, while trying to position the program for more stable and longer-term funding.
- It is written with honesty in that the administrative change will not guarantee increased or more stable funding.

Who directs MTNHP?

Through internal MTNHP discussions, the December 11th Commission Meeting, and MSL-MTNHP staff meetings, there is a tug-of-war or power game occurring on who directs the Program.

MSL:

Clearly MSL is the legal entity that has the statutory responsibilities for the Program, and is given the choice of whether or not to contract its operation [90-15-101, MCA and 90-15-102, MCA]. These statutes allow MTNHP:

- * to be a neutral, non-regulatory agency to collect and centralize information for Montana.
- * to receive significant funding from MSL to accomplish our core work.

University of Montana-special program under the Office of the Vice President for Research and Creative Scholarship (University):

The contract gives the University of Montana the ability to operate the Program, which makes MTNHP staff University employees. The University provides salaries, health care coverage, grant management, financial support, and other services. The contract requires that the University “ensure that any contracts, grants and/or funding opportunities complement and enhance the mission of the MTNHP and the Library as defined in statute, in the MTNHP Scope of Work and Strategic Plan.”¹ The contract further requires the University to “[e]nsure that special projects do not directly compete with, or create the perception of competing with, the private sector.”²

The contract gives MTNHP increased flexibility and freedom to:

- continue being affiliated with a neutral, non-regulatory organization, where MTNHP staff can choose their UM or MSL affiliation depending upon the circumstance.
- pursue projects and tasks that run the spectrum from core information (species status, State checklists, and locations of specific flora, fauna, and biological communities), to management-based research and monitoring, to University-level research.
- stabilize the Program’s core funding shortfall and increase funding partners.

Program Coordinator:

Our current Program Coordinator has built most of his career with the MTNHP, is very supportive for and knowledgeable about each internal program, MTNHP partners, and the NatureServe network. This all expresses into his passion for the MTNHP, which is an admirable trait. However, excessive passion can lead to obsession and may limit his ability to see alternative viewpoints.

NatureServe:

In Statute, our Program “shall be designed to be compatible with similar programs in other states” (90-15-302(2), MCA), which is the network of State/Province natural heritage programs, led by NatureServe, an NGO. Efforts to strengthen the network are needed and does create benefits for each of the state/province natural heritage programs. With funding from other states, the MTNHP has helped the network by re-adjusting workloads of our Web Programmer and Information Services staff to create a botany database for the Utah Natural Heritage Program and to assist Wyoming, California, and other states in creating their Field Guides.

The Partners:

In conversations ‘The Partners’ are often mentioned as needing to provide input, but who are they and what is their role in guiding the MTNHP?

Traditionally, The Partners include those in Montana who provide data and/or contribute to core and supplemental core funding:

- By statute 90-15-102(4), MCA, "Principal data source agencies" means any of the following state agencies: the Department of Natural Resources and Conservation; the Department of Fish, Wildlife, and Parks; the Department of Environmental Quality; the Department of

¹ <http://mtnhp.org/about/announce.asp#StrategicPlan2015>

² Fiscal Year 20-21 Core Contract, University Responsibilities, w.

Agriculture; the Department of Transportation; the State Historical Society; and the Montana University System.

“Principal data source agencies”, except for the State Historical Society, also contribute to core funds and in some years provide supplemental and/or project funds.

- Organizations that manage plants, animals, and biological communities in Montana, such as the Montana USDA-Natural Resources and Conservation Service, Montana Ecological Service-U.S. Fish & Wildlife Services, Region 1-U.S. Forest Service, Montana/Dakotas-Bureau of Land Management, Montana-The Nature Conservancy, Weyerhaeuser timber company, and many more. These Partners provide data and/or supplemental core funding and may also contribute to project funding.

Since inception, The Partners have grown substantially as a means to validate the need for the MTNHP and to secure funding to support its mission. In a similar fashion, staff have developed professional relationships with organizations for which we partner with on specific projects. These include other state natural heritage programs, private consulting businesses, and regional or national non-profit / non-governmental organizations. While these organizations can be very important to acquiring funded projects and/or flora, fauna, or biological community data, I argue these partners should not direct the Program’s administration or strategic directions because they are either for-profit or have regional or national interests that go beyond just Montana. I argue that The Partners that could provide input to the administration and strategic directions of the Program should be Montana-based organizations, that provide data and/or funding. I will illustrate with a personal example from the Botany Program:

As Program Botanist, a core responsibility is to acquire data on the flora of Montana, including lichens and mosses. Northwest Lichenologists (NWL), administered in Oregon, is a non-profit organization of professionals aimed to promote lichenology and bryology in the Pacific Northwest. With a competitive grant from the Montana Native Plant Society and a botany agreement with the Montana/Dakotas BLM I was able to get 6 expert bryologists and lichenologists from outside Montana to help me conduct the first documented moss and lichen surveys for Musselshell County. This effort is putting at least 300 accurate observations into the botany database, depositing about 200 curated specimens into the University of Montana herbarium, and contributing directly to our core mission. While the work and services of NWL are quite important to Montana, their regional interest and specific goals should not influence the direction that the State of Montana needs for its MTNHP.

Program Directives

In the past three years funding shortfalls and pressures to provide products and tools are leading to increased workloads with no ability for compensation, higher staff stress-levels, and unprecedented work pursuits. The Botany Program and Information Services staff are likely stressed the most because of the heavier core workloads and higher level of integration within the Program. I would like to illustrate this with 3 examples from the Botany Program:

Example #1: Managing exotic flora and fauna.

Prior to 2016, Ecology, Zoology, and Botany focused on native species. Since that time, we have developed working agreements with MFWP, MDA, and DNRC to become the central database for exotic species in Montana. Given these agreements, I agree that managing information on exotics fits well with our Program and data systems, is beneficial for Montana,

and that the Botany Program should be the central informational source for all botanical species. Yet it has come with no increase in permanent staff support to maintain accurate and defensible data on the species, locations, and status of exotic plants and animals. Instead species' names are added without implementing full quality control measures, over 480,000 observations show on MapViewer as 'provisional' awaiting Level 2 Quality Control measures, and funding is geared to project-level tasks with deliverables completed by various part-time temporary staff or by permanent staff who have re-arranged their work priorities.

Example #2: Managing undocumented flora and fauna.

This is an example of why the Program Botanist needs more than 45% funding to do core work. Since inception the MTNHP has the responsibility to track the status of species known or reported to occur in Montana. Since 2017, there have been pressures from MFWP, MDA, and/or DNRC to add to the databases and Field Guide species for which do not occur in Montana. Philosophically, this goes against my goals for the Botany Program. Simply adding species to our database and Field Guide can imply 'presence' if information is not carefully read, which would then work against agency-level educational efforts aimed at preventing introductions of invasive species. How to meet Partner needs and accurately provide information became an internal battle, in part because internal MTNHP coordination was lacking. Eventually, MTNHP staff found a resolution for how to database information on undocumented species AND clearly show to data-users that they are "not documented in Montana".

Example: Montana managing North Dakota & South Dakota plant and animal data.

The Montana/Dakotas BLM approached MTNHP to manage plant and animal data for the lands they manage within western North Dakota (ND) and South Dakota (SD) because our Program does an excellent job. Despite my objection and a lack of additional permanent staff support, the MTNHP botany database now contains ND and SD plant observations and species information while their respective State Natural Heritage programs do not. This data sits in the databases unmanaged. Even if funded, I could not with good conscience maintain an accurate and defensible botany database of ND/SD plants that occur on a specific land ownership and geography where I lack expertise. Further, my management of these ND/SD plant species could come into conflict with how they are treated by other agencies in the remainder of their states. How does housing ND/SD plant data in a Montana database actually benefit our MT/Dakotas BLM Partner? Meanwhile, as Program Botanist, every database task begins with me checking for and removing ND/SD plant data to do my work on Montana plants. The ND/SD data only serves to increase my workload within a program that is under-funded.

While there are both benefits and disadvantages to the expansion of MTNHP's mission and scope, the question that I have is: Who, or what body, has the operational and strategic oversight regarding the direction of MTNHP?

I argue that currently MSL or UM have limited ability to provide the necessary oversight of the Program, and that oversight is needed.

Why is there a level of resistance towards MSL's proposal to administer the Program?

1. Some MTNHP staff do not trust that MSL can manage the entire Program:

a) Some staff are aware of NRIS and how vibrant it was up until about 2008. NRIS was created and managed by the same statutes as MTNHP, yet it has basically vanished. Why? Would that happen to MTNHP?

b) For many years the Ecology program has chosen not to use Core funding, but to fund ecological work with project funding. The Ecology Program has been very successful at bringing in project funding, in part because wetlands are federally-regulated and, in part because of research collaboration through the Spatial Analysis Lab (SAL). The Program relies on a complex funding model, which staff are unsure if MSL understands and could support through a state-government model.

2. There is a fear that staff will lose the freedom and flexibility to pursue projects if directly administered under MSL.

It is true, that being a program of MSL by statute, but operated by the University gives the Botanist, Ecologist, and Zoologist the best of both worlds. Without the statutes our Program loses the ability to be Montana's central database for the flora, fauna, and biological communities. Without UM we lose some avenues for funding core and project work that supports our mission. Yet too much freedom and flexibility blurs the lines with ensuring that the Program does not create the perception of competing with the private sector.

3. There is real and serious fear that MTNHP will lose existing federal contracts.

Botany, Ecology, and Zoology have many federal contracts and would lose a large amount of funding if contracts cannot be transferred. In recent years it has been hard for MTNHP to qualify alone for federal contracts because the emphasis is to contract federal work to the private sector, even if private companies lack the necessary skills and abilities. Further many federal contracts require work across a region (not just a State). The MT/Dakotas BLM indicated that many contracts would likely get terminated and re-allocating funds may not be possible (December 11, 2019 e-mail). Any disruption in funding would likely lead to programmatic funding shortfalls and temporary employee lay-offs. However, this needs to be fully investigated with each federal agency and each contract to verify if project funding would be retained or lost.

4. MTNHP staff feel the timeline for a decision is too fast and not enough details of the Program have been thoroughly evaluated.

Finding Resolution

In my perspective, ownership of the MTNHP by MSL who has the statutory responsibility is necessary for the Program to remain successful. How the responsibility and ownership for the program is managed is a different question.

The best resolution will come about with a thoughtful and deliberate process that allows Montana-invested Partners and key staff from MTNHP, MSL, and University to provide contractual facts, financial assessments, and other detailed input. It is likely that an MSL-University-MTNHP partnership should remain to ensure MTNHP's cost-effective, useful, and centralized role in the stewardship of Montana's plants, animals, and biological communities. Given informed details, I feel the solution will be found through the collective brainstorming efforts of Jennie Stapp, Scott Whittenburg, Bryce Maxell, and a facilitator. A facilitator is necessary because each person brings their own communication style and abilities to hear and to speak, and without facilitation a group understanding may not evolve.

- Clearly articulating each parties' goals, needs, and desired outcome are essential to establish.
- Evaluating what is not working well under the current operation by MSL and contracting by UM needs to be honestly addressed. Perhaps the 'contract' is not a useful process, but another mechanism to maintain a MSL-University-MTNHP partnership likely exists?
- The previous State Budget Director said that funding is the University's problem, so perhaps better engagement with the University can provide funding solutions. Increased core funding, higher salaries for permanent staff, and/or the ability to earn compensation when necessary to work over 40-hours should be thoroughly discussed.
- Under a different mechanism for partnership, measures to outline who provides oversight for the Program and directives should be developed.
- As suggested by a MT/Dakotas BLM Partner, perhaps the Program should work within the constraints of its funding to reduce over-worked and under-funded staff.

Addressing some questions raised by Commissioners on December 11th

Aaron LaFromboise, Recorded Meeting: Part 1, 1h 32m and 2h 23m

From my perspective, you raised key questions and your comments focused squarely on the issues. I will touch on some of them:

- Reviewing Contracts: I cannot speak to whether the MSL-University contract has been evaluated at times, but I can agree that contracted services should be re-evaluated with genuine conversation about the purpose, need, and value on a frequent basis.
- From the Botany Program's perspective the Program does push to search for funding regardless of workloads and has taken on projects that blur the line with private consulting because there is always a fear of not having enough funding in the future.

- Tuition-Waiver Benefit: Though staff are interested, several requirements must be aligned for this benefit to be recognized (guidelines attached):
 - I am the only current MTNHP staff using this benefit for my dependent. Employees must be employed for 5 consecutive years, at at least three-quarter time, and throughout the dependent's school term. I became eligible to use this benefit for Spring term 2020. It reduced tuition by 50%, for about \$1,450.
 - For staff to use the tuition waiver, they must be formally admitted to UM, be permanently employed, and at three-quarter time or more.

Commissioner Ken Wall, Recorded Meeting: Part 1, 1h 53m and Part 2, 1h 01m

Questions were raised about splitting the Program. I think there is confusion about what is meant by Information Services. Information Services consists of Karen Coleman, Braden Burkholder, and Scott Blum. Karen essentially designed the MTNHP botany and animal databases for which an observation of a plant or animal forms the building block for any data product. Karen made sure our databases were compatible with NatureServe's database (Biotics), so that State- and National-level data can be exchanged. These databases were also built with great input from the Botanist, Ecologist, and Zoologist. To this day, every step in processing data is done by Information Services staff working closely with the Botanist, Ecologist, or Zoologist. For reason's outlined in my November 3, 2019 letter, placing Information Services and/or Web Programmer under a different administration from the Botanist, Ecologist, and Zoologist would require formal agreements for managing our product of 'data' and would lead to MTNHP's gradual loss of product control.

Kenning Arlitsch, Recorded Meeting: Part 2, 1h 10m

The comment was made that the contracts and soft money have worked well for the program. Followed by a question that "hasn't the research produced most of the data that has gone into the Natural Heritage Program?". Bruce Newell replied, "Yes", but the correct answer is NO. The majority of data in the animal and botany databases comes from federal and state partnering agencies collected "in the normal course of their operations". Another significant source of animal and botany data comes from private consultants, non-profits, and private citizens. Funded projects (soft money) often have specific goals and usually contribute a small amount of observation data. Examples from the Botany Program include: a) monitoring a specific plant which is used to assess population trends, effects from grazing, or other questions, b) teaching plant identification classes, c) conducting a conservation status assessment for a particular plant, d) analyzing plant models, and e) inventorying plant species at a particular site. Most of these projects will put some observation data (core data) to the botany database, but some will provide no observation data, and others provide information more suitable for a scientific publication than for our database.

In closing, I appreciate your time spent reading and helping to resolve problems for the MTNHP. Feel free to contact me by phone 406-444-3019 or electronic mail apipp@mt.gov.

Sincerely,



Andrea K. Pipp
Program Botanist, MTNHP

Letter mailed to:

Jennie Stapp - State Librarian

Anne Kish - State Library Commission Chair

Ken Wall - State Library Commission Vice-Chair

Kenning Arlitsch - State Library Commission

Commissioner of Higher Education Appointee

Elsie Arntzen - State Library Commission Superintendent of Public Instruction

Jamie Doggett - Library Commissioner

Aaron LaFromboise - Library Commissioner

Bruce Newell - Library Commissioner

Scott Whittenburg - Vice President for Research and Creative Scholarship

Bryce Maxell - MTNHP Coordinator

FACULTY/STAFF TUITION WAIVER

Instructions

IMPORTANT REMINDERS

- You **MUST** be formally admitted to UM **and** register for any coursework. Merely completing this application does not register you for coursework.
- If you leave employment at UM during the middle of a semester that you are using this tuition waiver, you may be required to pay the entire amount back.
- For every semester you are taking classes using this tuition waiver, a new application must be approved and submitted to HRS.

QUALIFICATIONS & ELIGIBILITY

The Montana Board of Regents has authorized the University of Montana to grant resident tuition waivers to employees under certain conditions. You may qualify if you meet the conditions of the Board Policy and the University of Montana requirements, which include:

- Being a permanent employee (.75 FTE or greater) during registration, at time of tuition payment and throughout the period of enrollment.
- Completion of any union probationary period of employment is required *before* filing an application for tuition waiver or registering for courses.
- Approval signatures of employee's supervisor and Director/Dean must be on application.
- **NOTE:** Use of this form is for regular UM courses only. Tuition waivers do not apply to courses offered through the School of Extended Lifelong Learning (SELL), the University Center or out-of-state tuition.

WHAT IS NEXT?

- ✓ Deliver completed application (including all approval signatures) to Human Resource Services in Lommasson 252. If you have questions, please call 406-243-6766.
- ✓ Human Resource Services will forward the application to the Financial Aid office for further review and processing.
- ✓ Please submit the application a minimum of five working days prior to your tuition payment.

ADDITIONAL INFORMATION

It is possible that any federal aid may be reduced as a result of this tuition waiver.

For Applicants NOT Employed by the University of Montana:

1. Complete your application with required approval signatures of your supervisor, Dean/Director from your Department/Institution.
2. After you have acquired all necessary approval signatures, your campus Human Resources Services (HRS) representative can confirm that you are eligible according to Board of Regents' policy. They will then complete the HRS section at the bottom of the application.
3. Once your eligibility has been confirmed, your application can be sent to the University of Montana Financial Aid Office. Visit UM's Financial Aid Office for further guidelines and contact information.

Human Resource Services

Dependent Tuition Waiver

Employees of the Montana University System (MUS) are eligible for a partial tuition waiver, 50% of the residential tuition, for their dependents. A dependent includes the employee's spouse or adult dependent, as defined in the MUS Employee Benefits Plan, and financially dependent children as defined by the Internal Revenue Code who are unmarried and under age 25.

This benefit applies to non-union staff, administrators and to employees included in a bargaining unit when the Dependent Tuition Waiver has been incorporated in a ratified collective bargaining agreement.

The following is information from our most frequently asked questions:

EMPLOYEE ELIGIBILITY REQUIREMENTS:

- Must be employed at $\frac{3}{4}$ time or greater for at least five consecutive years without a break in service.
- Service in a temporary position counts towards 5-year waiting period when service is at $\frac{3}{4}$ time or greater and there is not a break in service.
- Academic year employment is considered one year of service with no break in service and the employee is reemployed for the subsequent academic year.
- Part-time employment at less than $\frac{3}{4}$ time, official layoff status or approved leave without pay **do not count** towards meeting the 5-year qualifying period.
- Employee must be employed and remain at $\frac{3}{4}$ time or greater during the entire academic term.
- Time worked at the Office of the Commissioner of Higher Education or at any unit of the university system at $\frac{3}{4}$ time or greater shall count toward the 5-year qualifying period as long as there is not a break in service of greater than five working days.
- Employment at any private institution, at any tribal college or the community colleges in Kalispell, Glendive and Miles City **does not count** towards meeting the 5-year qualifying period.
- All requirements must be met before the beginning of the academic term utilizing the waiver.
- Terminating employment prior to the end of the academic term shall require repayment of the dependent tuition waiver.
- Jointly employed spouses may utilize the dependent tuition waiver benefit for two children at one time, but any one child may not receive more than a 50% tuition waiver.

APPLICATION/CERTIFICATION PROCESS:

- Application for the dependent tuition waiver may be initiated by the employee or the employee's dependent.
- Applications require signatures of both the employee and the employee's dependent.
- The application must be sent to Human Resource Services for certifying employee eligibility.
- Human Resource Services will send the eligibility certificate to the appropriate financial aid office.
- New certification and recertification **is required** for each academic term.
- Employee's signature verifies that they are not using the faculty/staff tuition waiver, the child using the waiver is claimed as a dependent for federal tax purposes and is unmarried or the employee is married to the spouse utilizing the tuition waiver.
- False certification of dependent eligibility is cause for discharge and the employee shall be required to repay the cost of the tuition waiver.

EDUCATION BENEFIT:

- The dependent waiver benefit is a 50% reduction in the cost of residential tuition. In no case may registration, course fees or any other mandatory fee be waived.
- The benefit is not taxable.
- Dependents may utilize the dependent tuition waiver at any unit of the university system as long as eligibility standards are maintained.
- Students who are dually enrolled at more than one unit receive a 50% reduction in the cost of residential tuition for courses taken at each unit.
- There is no limitation on the number of credits that may be taken each academic term.
- If the employer requires an employee to take a course to obtain new job skills and the employee wants to use the dependent waiver for a spouse or child, the employer is responsible for paying the full tuition for the employee.
- The waiver does not apply to noncredit, continuing education, or self-supporting courses.
- The dependent tuition waiver may be utilized to obtain their first baccalaureate degree.
- The dependent tuition waiver **may not be used** to attend law school or obtain a graduate degree.
- Graduate level courses are excluded from the dependent tuition waiver benefit.
- Students who receive other tuition waivers or scholarships awarded by the University of Montana need to disclose their eligibility for the dependent tuition waiver benefit and are only eligible to receive both benefits, or portion thereof, at the discretion of the university. Such students shall receive, at a minimum, the greater of the two benefits. Scholarships awarded by outside entities are not subject to this limitation.