

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN LARRY TVEIT, on January 31, 1995, at

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused:

Members Absent:

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 103, SB 114, HB 73
Executive Action: SB 103 DO PASS
SB 114 DO PASS
HB 73 BE CONCURRED IN

HEARING ON HB 73

Opening Statement by Sponsor:

REPRESENTATIVE BOB PAVLOVICH, HD 37, Butte, stated HB 73 was an act to establish a portion of Montana State Highway 78, from Columbus to Absarokee and Roscoe to Red Lodge, as the Donald J. Ruhl Medal of Honor Highway. He referred to **EXHIBIT #1** and explained who Donald J. Ruhl was. He said Donald J. Ruhl served in World War II as a marine and was the only Marine from the State of Montana to win the Congressional Medal of Honor. He attested there were five Congressional Medal of Honor winners in

the State of Montana but Ruhl was the only Marine. He explained that Donald Ruhl sacrificed his life in a foxhole on Iwo Jima to save his comrades. He said the people of the proposed area would like to have a portion of that highway dedicated in his name.

REPRESENTATIVE PAVLOVICH noted the fiscal note showed an approximate cost of \$1200 to put up two signs, one on each end of the highway.

Proponents' Testimony:

Jim Jacobson, Administrator of the Montana Veterans Affairs Division, related that the veterans of the State of Montana were in support of HB 73. He said they felt it was due recognition of a World War II Marine who gave the ultimate sacrifice for his country, and the State of Montana should recognize him in this fashion.

Dick Baumberger, Disabled American Veterans Department of Montana, expressed strong support for HB 73.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR LINDA NELSON asked **Gary Gilmore**, of the Montana Department of Transportation (MDT) if there were other portions of highways which were memorial highways. **Mr. Gilmore** stated that a portion of I-15 was the Mike and Maureen Mansfield Memorial Highway. **Mr. Jacobson** remarked that I-15, from the Idaho border to the Canadian border, was the Veterans' Memorial Highway.

Closing by Sponsor:

REPRESENTATIVE PAVLOVICH stated he would like the record to show **Mr. Hal Masser**, of the American Legion, and **Mr. Joe Bren**, of the VFW, as supporting the Legislation. He informed the Chairman that **SENATOR MIKE HALLIGAN** had volunteered to carry the Bill on the Senate Floor.

HEARING ON SB 103

Opening Statement by Sponsor:

SENATOR DON HARGROVE, SENATE DISTRICT 16, Belgrade, stated the Bill had been requested by the Montana Department of Transportation (MDT). He stated that in 1991 a modification was

made on a federal highway through Yaak, Montana and that had resulted in a small utility company having to move some utilities at the cost of \$250,000. He reported a dispute had ensued as to who was going to pay the moving costs. He explained that the Montana Supreme Court ruled in favor of the federal government and Montana assumed the costs. He concluded the federal government may have had a guilty conscience, as it wound up paying half of the costs. He attested that SB 103 would bring language into conformity with other definitions contained in Montana law and federal law. He maintained that if SB 103 had been in place in 1991 Montana would not have had to pay \$250,000.

Proponents' Testimony:

Nick Roterig, Staff Attorney for the Montana Department of Transportation (MDT), read his written testimony, (EXHIBIT #2).

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR MACK COLE asked if the federal government had commented on this issue since the law suit? **Mr. Roterig** replied they had not and added that the federal government understood what happened and had been very cooperative. He stated the federal government had no opposition to the Bill.

SENATOR REINY JABS inquired who would be responsible to pay the remaining 25% after the Department bore 75% of the cost. **Mr. Roterig** answered that the utility would and always had since 1965.

SENATOR JABS asked if the cost was based on the utility company doing the work and then charging the Department 75% of their cost. **Mr. Roterig** identified that as the normal procedure. If the utility was a large company they would do the work themselves. He stated that smaller companies generally contracted someone to do the work. He stated the moving of utilities was done during right-of-way acquisition, prior to construction.

SENATOR ARNIE MOHL asked if utility companies pay for putting their utilities on public right-of-way? **Mr. Roterig** stated there was a charge and they had to obtain a permit from the Department.

SENATOR MOHL asked what would happen in the case of new construction when utilities had to be moved and the state had purchased additional right-of-way? He asked if the utility was allowed to put their poles on public right-of-way at no charge? **Mr. Roterling** stated that was correct.

SENATOR MOHL suggested that was something which should be looked at in the future, as it did not seem right for the utilities to use public right-of-way at no charge and then charge the state each time the state needed them moved.

SENATOR GREG JERGESON asked if the Department audited the charges from the utility? He further questioned what would stop the utility from inflating the price of the move by 30% which would effectively mean the Department was paying 100%. **Mr. Roterling** stated there was currently a major audit by the Legislative Auditor regarding utility operations. He added that in larger projects both federal and state levels reviewed the charges.

SENATOR JERGESON asked how the Department was auditing the utility companies to be sure the state only paid the true and proper costs? **Mr. Roterling** said MDT had an audit staff who had audited various utility relocation projects.

SENATOR REINY JABS interjected that rural electric utilities had a standard formula used to determine costs.

CHAIRMAN TVEIT asked about page 1, line 30 where 'shall' had been struck and 'must' inserted? **Connie Erickson** stated the Legislative Council had certain language standards used in drafting legislation to make the laws clean and consistent. She said one of the standards was to use 'shall' when a duty or action was imposed and 'must' when there was more of a passive type action. She said the standard did not change the meaning, it just provided for more proper use of the words.

SENATOR JABS stated the current statute provided for utilities to pay 25%. He asked why utilities were required to pay even 25% of the cost of moving which did not benefit them at all? **Mr. Roterling** stated he could not answer that.

SENATOR MOHL asked for clarification that when the utility was not located on the public right-of-way and was required to move, the Department would pay 100%? **Mr. Roterling** stated that would be correct in a situation where the utility was on what had been private property which was later acquired by the Department.

Closing by Sponsor:

SENATOR HARGROVE stated SB 103 was intended to fix a weak spot in existing law and to preclude a future dispute over costs.

HEARING ON SB 114Opening Statement by Sponsor:

SENATOR ARNIE MOHL, Senate District 39, Kalispell, stated SB 114 was very simple and would save \$17,000. He explained that under current law property with a value greater than \$100 had to have an appraisal and an appraisal costs approximately \$2500. He defined SB 114 as changing the Department's appraisal requirement to affect only property valued at more than \$2500. **SENATOR MOHL** noted there was an error in the fiscal note which should read required costs of \$2500 less in line 2. He identified SB 114 as affecting only property which was to be sold.

Proponents' Testimony:

Gary Gilmore, Montana Department of Transportation, explained the crux of the Bill was that appraisal fees far exceeded the value of the property to be sold in small sales. He explained that the Department wanted to raise the limit to enable them to at least break even on the sale. He said current law presently read, on lines 29 and 30, the value received in a sale must be 90% of the appraised value and if the Department wasn't receiving the required amount they could not make the sale. He attested that SB 114 would save the state money and defined the only difference between a sale under \$2500 and one over \$2500 was the appraisal. He said the property would still go through the public auction process.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR MACK COLE asked what process would be used to determine the value of the property in the absence of an appraisal? **Mr. Gilmore** replied the Department had a pretty good idea of the value of property. He explained that in most cases the Department owned the property as a result of purchasing it for a specific use or because it was excess, such as an uneconomical remnant resulting from construction having split a portion of land.

SENATOR COLE asked if SB 114 applied only to real property? **Mr. Gilmore** stated that was correct.

SENATOR CHARLES 'CHUCK' SWYSGOOD said the savings was shown to be \$35,000 in the biennium and asked if the savings would go toward matching funds for highway construction? Mr. Gilmore stated the money currently came out of the operating expenses in the right-of-way division. He stated the money basically was not eligible to be used for construction costs per se. He stated that any money not used in the Division would revert back to the Highway Special Revenue Fund which was eligible for construction costs.

Closing by Sponsor:

SENATOR MOHL stated SB 114 was one of the bills discussed, which had to be done.

EXECUTIVE ACTION ON SB 114

Motion/Vote:

SENATOR MOHL MOVED SB 114 DO PASS AND THE MOTION CARRIED WITH SENATOR STANG VOTING NO.

EXECUTIVE ACTION ON HB 73

Motion: SENATOR COLE MOVED HB 73 BE CONCURRED IN.

Discussion:

SENATOR JABS stated \$600 per sign seemed fairly high. Mr. Gilmore stated maintenance division had helped prepare the fiscal note. He added that the size of the signs played a major role in the cost, as well as cost of the posts and the construction work required.

Vote: THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 103

Motion: SENATOR MOHL MOVED SB 103 DO PASS

Discussion:

SENATOR STANG asked if SB 103 was the result of another federal mandate. **Connie Erickson** explained that the Bill was to clarify who was supposed to pay for moving of utilities and to change the wording to conform to statute. **SENATOR STANG** stated that if it was all present law except for the change in the federal aid, then SB 103 would change nothing.

SENATOR JABS asked if interstate highways were paid by the federal government? **Mr. Gilmore** answered that the Interstate, as anything on the federal highway aide system, was paid approximately 80% by the federal government and 20% by with state funds. He said that when the state participates in 75% of the cost of moving a utility the federal government paid 80% of the state's 75%.

SENATOR STANG asked where the federal government got the money? **Mr. Gilmore** stated the money belonged to the taxpayers. **SENATOR STANG** made a clarifying statement that the taxpayers were paying 100% of the 75%.

SENATOR JERGESON stated that often times the definition had material influence on important events. He said that definitions could be important if in fact some word was wrong and a utility company could sue the State of Montana over highways not being designated as on the federal aid systems.

Vote: THE MOTION THAT SB 103 DO PASS CARRIED WITH SENATOR STANG VOTING NO.

ADJOURNMENT

Adjournment: The meeting was adjourned at 1:40 p.m.



SENATOR LARRY TVEIT, Chairman



Carla Turk, Secretary

LJT/cmt

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 31, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration HB 73 (third reading copy -- blue), respectfully report that HB 73 be concurred in.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

PV Amd. Coord.
SP Sec. of Senate

Halligan
Senator Carrying Bill

261413SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 31, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 103 (first reading copy -- white), respectfully report that SB 103 do pass.

Signed: *Larry Tveit*
Senator Larry Tveit, Chair

 Amd. Coord.
SA Sec. of Senate

261412SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 31, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 114 (first reading copy -- white), respectfully report that SB 114 do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

PV Amd. Coord.
SA Sec. of Senate

261411SC.SPV

FOR
BOB
P.

SENATE HIGHWAYS

EXHIBIT NO. EX 1

DATE 4/31/95

BILL NO. HB 73

Box 22
Roscoe , Mt. 59071
16 Sept. 1993

Vernon Keller Rep HD 83
HC 55 Box 355
Fishtail , Mt. 59028

549-9429

John Mandeville
1106 Dickson
59802

Dear Representative Keller,

I submit to you the following proposal: To designate State Road #78 From Columbus , Mt. to Red Lodge, Mt. , a distance of 48 miles as the DONALD J. Ruhl medal of honor highway(see enclosed map) .

It is a great honor and privilege for me to recommend this designation to the Montana State Legislature.

The enclosed information explains the justification for such a designation. The enclosed letter from the Montana Dept. of Transportation explains the guidelines and emphasizes that public safety is the number one priority. There are numerous areas that can be used for signs and plaques, that will not conflict with the normal operational roadway traffic.

The Stillwater Historical Society is supporting a long overdue tribute to Donald J. Ruhl in the form of a display in the Museum of the Beartooths, Columbus, Mt. The dedication is planned for July of 1995.

Your support and cooperation in what ever is necessary to bring this designation to a reality will be greatly appreciated.

Sincerely

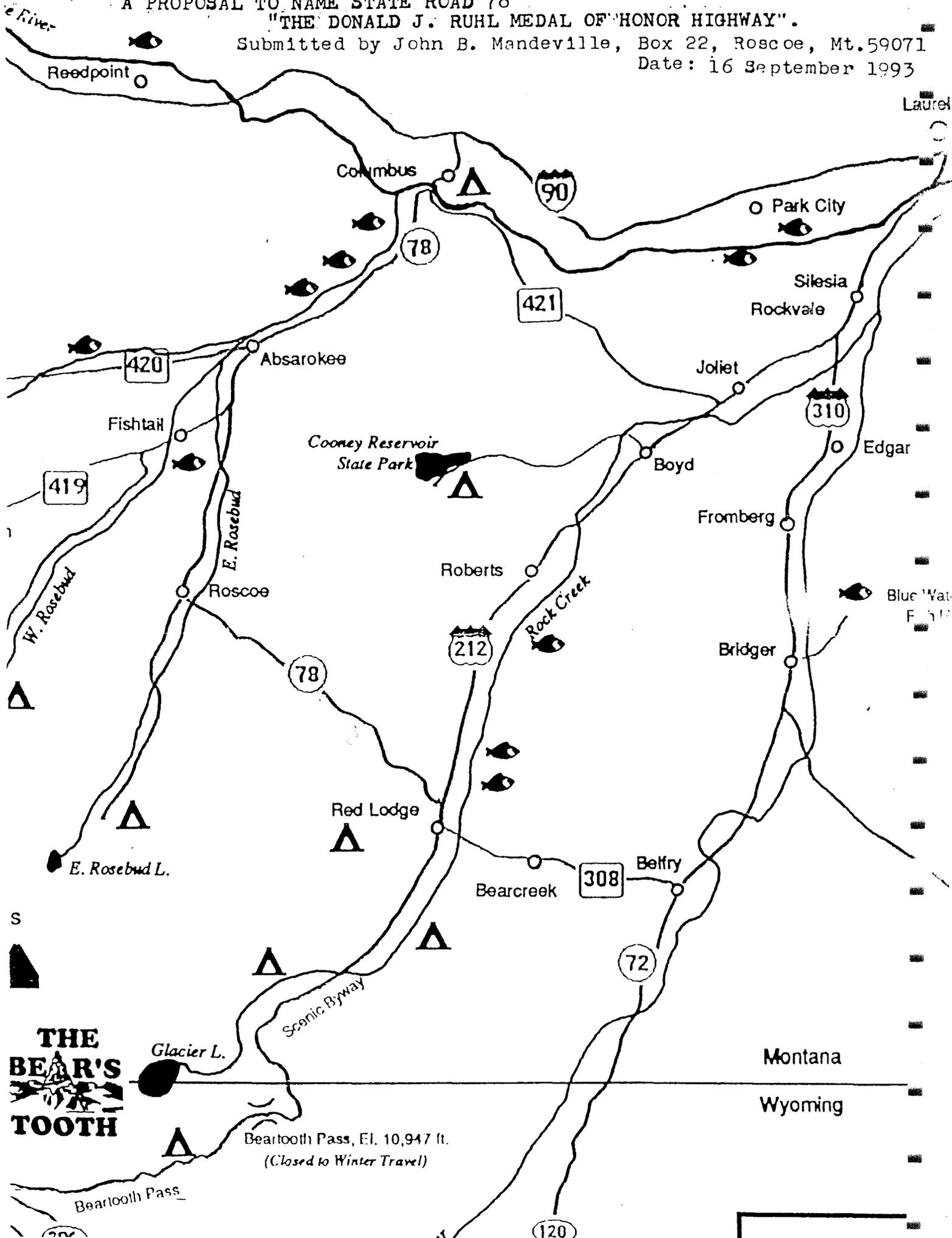
John B. Mandeville

A PROPOSAL TO NAME STATE ROAD 78

"THE DONALD J. RUHL MEDAL OF HONOR HIGHWAY".

Submitted by John B. Mandeville, Box 22, Roscoe, Mt. 59071

Date: 16 September 1993



THE BEAR'S TOOTH

Montana
Wyoming

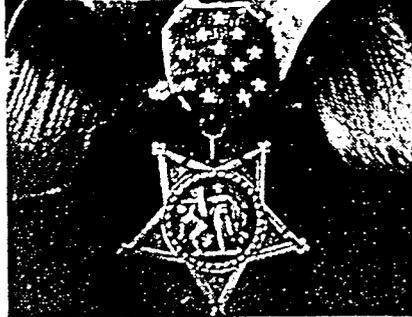


EXHIBIT 1
DATE 1-31-95
HB 73



**5TH MARINE DIVISION, 28TH MARINES
2ND BATTALION, COMPANY E, 3RD PLATOON
(WORLD WAR II)**



PRIVATE FIRST CLASS DONALD JACK RUHL, USMCR 423506

Private First Class Donald J. Ruhl's company commander said of him, "Don was a fine, courageous young man and a good Marine." A higher tribute is seldom paid a Marine, but the United States Government, through the President, has added to the Marine captain's heartfelt praise by presenting its highest military decoration, the Medal of Honor, to the late Donald J. Ruhl.

Donald Jack Ruhl was born in Columbus, MT, on July 2, 1923. His parents were Indiana born John A. Ruhl and Edith Ruhl a native Missourian. Educated in the Columbus grammar schools, Ruhl graduated from high school in Joliet, MT, in 1942.

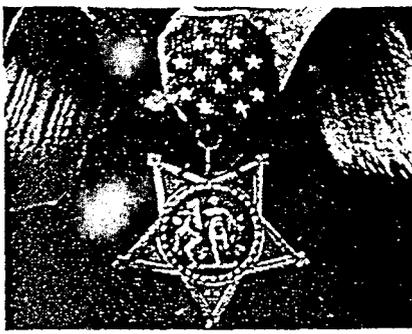
From 1937 to May, 1942, the blue-eyed, brown-haired youth worked as a general farm hand on Lowel Gibson's 400 acre farm near Joliet. His wages were \$15 a week with room and board. Since the farm had no mechanical labor, he worked hard for his pay. In the spring of 1942, shortly before his graduation, Ruhl went to work for the Independent Refining Company of Laurel as a laboratory assistant for \$32 a week. His only relaxation was found in hunting small game with his 12-gauge shotgun.

Ruhl enlisted in the Marine Corps Reserve on September 12, 1942 in Butte, MT, and went on active duty the same day. He was transferred to the recruit depot at San Diego, CA. During his training, he fired a score of 224 with the service rifle to qualify as a sharpshooter. Private Ruhl also made the grade as a "combat swimmer". For sports activities the five foot, eleven inch, 147 pound farmer boxed in the recruit matches and also participated in baseball, basketball and swimming.

After completing "boot camp" in November, Private Ruhl was transferred to Company "B", Parachute Training School in San Diego. Promoted to private first class on December 19, 1942, at the conclusion of the five-week course, the qualified parachutist joined Company "C", Third Parachute Battalion of the Third Marine Division at Camp Elliott, San Diego.

Private First Class Ruhl went overseas on board the USS MOUNT VERNON on March 12, 1943, as a 60-millimeter mortar crewman in the "Paramarines". Enroute to New Caledonia, which was to be a training base for the Parachute Marines, the Montanan crossed the equator on March 17, and was duly initiated into the realm of King Neptune.

After six months of training at New Caledonia, the Paramarines sailed for Guadalcanal on board the USS AMERICAN LEGION in September, 1943. In October the unit, now Company "L", Third Parachute Battalion, First Marine Parachute Regiment, First Marine Amphibious Corps, boarded ship and moved on to the newly won Vella LaVella Island in the Southern Solomons. About 2 1/2 months later Donald Ruhl was again aboard ship. This time it was a Landing Craft, Infantry (LCI), and the destination was Bougainville Island.



The Third Parachute Battalion saw their first combat at Bougainville. In January they returned to Guadalcanal where they sailed for the United States aboard the U.S. Army Transport DAVID C. SHANKS. Arriving in San Diego on February 14, Private First Class Ruhl was transferred to Company "E", Second Battalion, Twenty-Eighth Marines of the fledgling Fifth Marine Division when the Paramarines were disbanded on February 21, 1944.

Private First Class Ruhl left the U.S. once more on September 19, 1944, aboard the U.S. Army Transport SEA CORPORAL. It arrived at Hilo, Hawaii five days later. He started on his last series of ship rides when he left Hilo on the USS MISSOULA in January, 1945. After stops at Honolulu, Maui and Eniwetok he arrived at Saipan in February. There he changed over to the USS LST 481, where he was carried to the shore of Iwo Jima.

D-Day at Iwo was February 19, 1945. On that day Ruhl single-handedly attacked a group of eight Japanese who had been driven from a blockhouse. Killing one with his bayonet, he killed another with rifle fire before the rest fled. Early the next morning he left the safety of his tank trap and moved out under a tremendous volume of mortar and machine gun fire to rescue a wounded Marine lying in an exposed position about 40 yards forward of the front lines.

Half carrying and half pulling the wounded man, Ruhl removed him to a position out of reach of enemy rifles. Calling for an assistant and a stretcher the tall youngster again braved the heavy fire to carry the casualty 200 yards back to an Aid Station on the beach. Returning to his outfit, he volunteered to investigate an apparently abandoned Japanese gun emplacement 75 yards forward of the right flank. Subsequently he occupied the position through the night thus preventing the enemy from again taking possession of the valuable weapon.

The next morning, D-plus two, "E" Company of the Twenty-eighth Marines pushed forward in the assault against the vast network of fortifications surrounding the base of Mt. Suribachi. During the advance, Private First Class Ruhl with his platoon guide, crawled to the top of a Japanese bunker to bring fire to bear on enemy troops located on the far side of the bunker. Suddenly a hostile grenade landed between the two Marines. Calling a warning to his senior noncommissioned officer, he instantly dived upon the deadly missile and absorbed the full charge of the exploding grenade into his own body. His action not only saved his companion but also prevented the grenade fragments from flying and wounding other nearby Marines. His position on the edge of the bunker would have made it an easy matter for him to drop down into a more protected spot had he so desired.

Two days later "E" Company raised the American flag on top of Mount Suribachi. The heroic actions and the death of Private First Class Ruhl were directly responsible for the placing of Old Glory on Mt. Suribachi by his comrades.

The Medal of Honor was posthumously awarded to Donald Ruhl. It was presented to his parents on January 12, 1947 at Greybull, Wyoming where they made their home. The ceremonies were conducted by the veteran's organization of Greybull.

October, 1949

Lest we forget a Marine's sacrifice for his country

To the News,

The American people recently had days of remembrance—Memorial Day, D-Day Europe, Flag Day.

Approaching soon are the 4th of July and the 2nd of July.

It's a privilege and honor for me to tell our citizens that the 2nd of July is the birthdate anniversary of PFC Donald J. Ruhl, USMC, who gave his life on Iwo Jima Island on February 21, 1945. Don was posthumously awarded the Congressional Medal of Honor on January 12, 1947, in Gréybull, Wyoming. Don was born in Columbus and educated in the Columbus and Joliet schools.

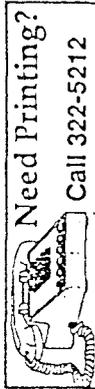
Let us remember what Don's sacrifice meant to us...Life, Liberty and the Pursuit of Happiness, guaranteed by the Constitution. So, let us stand tall and proud and support a long overdue tribute to one of Montana's seven Medal of Honor recipients and Montana's only Marine to be awarded this nation's highest military decoration.

I appeal to your patriotism and generosity to support a tangible tribute to Donald J. Ruhl sponsored by the Stillwater Historical Society.

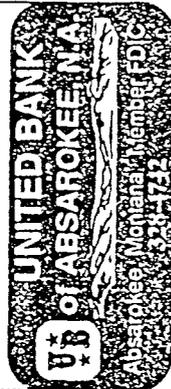
Send your tax-deductible contribution to: The Donald J. Ruhl Memorial Fund, Box 69, Columbus, Montana, 59019.

Visit the Museum of the Beartooths located at 5th Street and 5th Avenue in Columbus and learn more about this great Marine who gave his life for his comrades and country.

Sincerely,
John B. Mandeville
Roscoe



We will be
CLOSED,
Monday, July 5



Friday, July 9, 1993 C

Islands

Best Ball — Al Wagner 61, Wilbur 54, Jack Stryker, Bill Wilbur 58, Cliff Tothorn, Sammy Luck, Gene 58, Neal Homestead, Jim Kessler, 58, Ted Fink, Bob Hooper 58, Neal Homestead, Tom Chalka 59.
Flag — No. 2 Beck McCormick, No. 3 Fred Tiller, No. 5 Bob Shen, No. 6 Felix Webb, No. 9 John Darrat.

Laurel Golf Club

Combined net — Glen Spurgeon, M. Johnson 133, Neil Mark, Pete Peterson 135, Zane Downen, Dick Young 137, Mike Burgess, Jay Edwards 140, M. B. Johnson, Bob Robinson 141, Zane Downen, Bev Kimberly 141, Bill Ryan, Don Beach 141.

Yellowstone

Two man baseball - Division 1: John Hedge, Randy Bodley 62, John Hedge, Fred Curville 63, (6-way tie) Doug Spive, Jim Collins 64, Bob Smith, Bob Puller 64, Tony Tysorah, Bob Puller 64, George Angelo, Bob Knapp 64, Randy Jacobs, Bill Cookley 64.
Division II — Jim Thelen, Bud Yarrup 59, Ben Lowe, Fred Wernicke 60, Tony Schenck, Fred Wernicke 62, Jim Thelen, Wayne Harrison 62.

Circle Inn

Lower gross — Jean County 58.
Lower net — Jean County 55.
Brick pot — Betty Steffanach, Donna Espry, Nancy Waldron.
Flags — No. 1 Audie Brown, No. 2 Jim Purcell, No. 3 Alton Steffanach, No. 4 Glenn Stambler, No. 5 Pat Bach, No. 6 Lon Ahlhead, No. 7 Nancy Waldron, No. 8 Jim Purcell, No. 9 Jim Purcell, No. 10 Joyce Kristensen, No. 11 Michelle Engle Zumbi, No. 12 Jean County, No. 13 Pam Lindberg, No. 14 Jean County, No. 15 Pam Lindberg, No. 16 Pam Lindberg, No. 17 Audie Brown, No. 18 Barb Downer.

Red Lodge

Two man aggregate — John Mandeville-Dove Mallin 64, Kurt Samuelsen-Greg Zaker 67, Chad Waples, Cory Elin 68, Gary Becker-Stene Oliver 68, John Gilligan-Pader Nest 69, Bill Barash-Luan Breawka 69, Rich Bruner-Gary Kone 70, Tony Zimponi-Rod Smith 70.

LEST WE FORGET
 A TRIBUTE TO
DONALD JACK RUHL
 PFC, USMCR 423506



EXHIBIT 1
 DATE 1-31-95
 # HB 73

DONALD J. RUHL, PFC, USMCR 423506

was qualified in the following:

- Parachutist
- Rifleman
- Mortarman
- Sharpshooter
- Combat Swimmer
- Boxer
- Baseball
- Basketball

ORGANIZATIONS ON D-DAY 19 FEBRUARY 1945
 V AMPHIBIOUS CORPS

FIFTH MARINE DIVISION



SPEARHEAD DIVISION

28TH MARINES
 COMPANY E 3RD PLATOON 2ND SQUAD
 PLATOON RUNNER



IWO
 JIMA



WINGS OF A
 PARAMARINE

BORN 2 July 1923 Columbus, Montana
 DIED 21 February 1945 Iwo Jima

Elementary School Columbus, Montana
 Graduated High School Joliet, Montana

POSTHUMOUSLY AWARDED
 THE CONGRESSIONAL MEDAL OF HONOR
 January 12, 1947 Greybull, Wyoming
 MONTANA'S ONLY MARINE TO BE AWARDED
 THE MEDAL OF HONOR

The Stillwater Historical Society is supporting this tribute in the form of a display to be located in the Museum of the Beartooths, Columbus, MT. Your financial support is needed and will be greatly appreciated. Please send your contribution to:

The Donald J. Ruhl Memorial Fund
 Box 69
 Columbus, MT 59019

Contributions also accepted in memory of loved ones.

"Uncommon Valor was a Common Virtue"
 Adm Nimitz

Pass on to a friend

ONCE A MARINE, ALWAYS A MARINE

Visit the Museum of the Beartooths located at 5th & 5th, Columbus, Montana and learn more about this great marine who gave his life for his comrades and country.

CONTRIBUTIONS ARE TAX DEDUCTIBLE



Montana Department
of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

SENATE HIGHWAYS Governor

EXHIBIT NO. 2

DATE 1/31

BILL NO. SB103

January 31, 1995

Legal Services Unit
Telephone: (406) 444-6090
Fax: (406) 444-7206

The Honorable Larry Tveit, Chair
Senate Highways and Transportation Committee
Capitol Station
Helena, MT 59620

Re: Senate Bill 103

Dear Senator Tveit:

The Department of Transportation supports passage of Senate Bill 103 by Senator Don Hargrove, Senate District 16. This bill was introduced at the request of the Department of Transportation for two reasons. Section 1 of the bill amends existing state law, § 60-4-401, MCA, by revising subsection (3) by listing what highways are to be designated on the federal-aid systems. The four designated systems are:

- (1) the National Highway System,
- (2) the Primary Highway System,
- (3) the Secondary Highway System, and
- (4) the Urban Highway System.

This definition is consistent with those used in other statutes of the Montana Highway Code as is required by federal legislation, ISTEA. This amendment is also consistent with Senate Joint Resolution 17 (1993 Session) where the Department of Transportation was directed to assess the need for revision to Montana statutes as a result of changes in federal law and to propose to this Legislature in bill form recommended revisions. Section 1 accomplishes that task.

Section 2 of the bill amends section 60-4-403, MCA, dealing with relocation costs that the Department must pay utilities who presently occupy highway right-of-way, but need to move because of highway construction. Since 1965, three statutes have been in the Department's state code dealing with cost of utility relocation. The reason for the change was made at the recommendation of the Legislature Auditor's staff because of a recent Montana Supreme Court decision, Northern Lights v. Department of Transportation, ___ Mont. ___, 874 P.2d 6 (1994). In that decision, the Montana Supreme Court affirmed a lower court's decision that interpreted section 60-4-403, MCA, as requiring the State to reimburse 75 percent of relocation costs even if the particular highway construction project was not one of the Department's and was not one on the federal-aid system as indicated in section 60-4-401, MCA. While this case may be unique to its particular facts, it was

The Honorable Larry Tveit
Page 2
January 31, 1995

suggested to clarify and prevent any further misunderstanding. The statute is amended to ensure that the 75 percent relocation costs paid by the Department are only for federal-aid system constructions of the Department.

This is not intended in any manner to change the existing way the Department deals with utility companies. It is intended only for the Department and not for any local governments. This bill only applies to those situations involving the Department of Transportation.

Very truly yours,



NICK A. ROTERING, Staff Attorney
Legal Services

NAR:jw

DATE 1-31

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: SB 103 SB 114
HB 73

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Wendy				
Dick Baumberger	D.A.U	73	✓	
Jim Jacobson	Mt Det ARR Di U	73	✓	
GARY GILMORE	MDT	SB 114	✓	
Nick ROTERING	MDT	SB 103	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY