



Ravalli County Weed District
329 Airport Road
Stevensville, Montana 59870
406-777-5842

From the Desk of the Coordinator ~ Kelliann Morris

Re: Lawns of Montana adv. Hill
Ravalli County Cause No. DV-16-223
BEBT File No. 7347
Cc: Ravalli County Attorney
Ccc: Ravalli County Commissioners

COPY

Dear Bohyer, Erickson, Beaudette and Tranel, P.C.:

I have received on August 3rd, 2017 your subpoena Duces Tecum to the Ravalli County Weed Department that directed me to produce and permit copying of all records in my possession concerning Simpson Road near Corvallis Montana.

Unfortunately I have no records, maintenance records or reports, no dust control records as we only deal with noxious weeds, no spray logs, spray control records, job orders, product information, chemical lists, witness statements, memorandum, correspondence or notes for Simpson Road.

Upon researching our spray records, this Road has not been sprayed or treated in any fashion by Ravalli County Weed District for over 4 years. There is no information I can provide you since no work or activities has been performed on this road by the Weed District.

Please let me know if you have any further questions.

Kelliann Morris ~ Coordinator
kmorris@rc.mt.gov
406-777-5842

RECEIVED

AUG 09 2017

Ravalli County Commissioners

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Chris cc the BCC
so we make sure they
see this in correspondence
JWX Glenda

STATE OF MISSISSIPPI
DEPARTMENT OF REVENUE
MEMPHIS, TENNESSEE

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Mississippi County Commissioners

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MISSISSIPPI
DEPARTMENT OF REVENUE
MEMPHIS, TENNESSEE



Bohyer, Erickson,
Beaudette, & Tranel, P.C.

Jesse Beaudette
John E. Bohyer
Erin M. Erickson
Katie C. Guffin
Ryan Heuwinkel
Jamie Iguchi
Josh Nichols
Paul N. Tranel

August 2, 2017

Via Certified Mail – Return Receipt Requested

Ravalli County Weed Department
329 Airport Road
Stevensville, MT 59870

Re: *Lawns of Montana adv. Hill*
Ravalli County Cause No. DV-16-223
BEBT File No. 7347

Dear Sir/Madam:

Enclosed in connection with the above-referenced matter is a copy of a *Subpoena Duces Tecum to Ravalli County Weed Department*. This subpoena directs you to produce and permit copying of all records in your possession concerning Simpson Road, Ravalli County, Corvallis, MT.

Pursuant to Montana Rule of Civil Procedure 45(d)(2)(B) (a copy of which is attached to the enclosed subpoena for your information), you have fourteen (14) days from the date of service of the enclosed subpoena to object to the production of the requested information. If you do not object to production of the requested information please forward it by no later than **August 21, 2017**.

In order to make this process more convenient for you please have the records copied and mail them to me. Please include a bill for the cost of producing the records, and I will see that it is promptly paid.

Thank you for your anticipated cooperation in this matter.

Sincerely,

BOHYER, ERICKSON,
BEAUDETTE & TRANEL, P.C.


Katie C. Guffin

KCG/kjd/lcg

cc: Lawns of Montana, LLC
Megan Winderl, Esq.

1 Jesse Beaudette
Katie C. Guffin
2 BOHYER, ERICKSON, BEAUDETTE & TRANEL, P.C.
283 West Front, Suite 201
3 Post Office Box 7729
Missoula, Montana 59807-7729
4 Telephone: (406) 532-7800
Facsimile: (406) 549-2253
5 Email: mail@bebtlaw.com

6 *Attorneys for Defendant*

7
8 MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT
9 RAVALLI COUNTY

10 KEVIN HILL and PATRICIA HILL,

11 Plaintiffs,

12 -vs.-

13 LAWNS OF MONTANA, L.L.C.,

14 Defendant.

Cause No. DV-16-223

THE HON. JEFFREY H. LANGTON

15 **SUBPOENA DUCES TECUM TO**
16 **RAVALLI COUNTY WEED DEPARTMENT**

17 **THE STATE OF MONTANA SENDS GREETINGS TO:**

18 Ravalli County Weed Department
19 329 Airport Road
20 Stevensville, MT 59870

21 YOU ARE COMMANDED TO produce at Bohyer, Erickson, Beaudette, &
22 Tranel, P.C., P.O. Box 7729, Missoula, MT 59807, on or before Monday, August 21,
23 2017, and permit inspection and copying of the following documents:

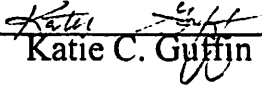
24 A complete copy of any and all records, including but not limited to,
25 maintenance records and reports, dust control records, spray logs, weed
26 control records, job orders, product information, chemical lists, witness
27 statements, memorandum, correspondence, and notes for Simpson Road,
28 Ravalli County, Corvallis, Montana.

1 Disobedience will be punished as a contempt by the said Court as provided in
2 Mont. Code Ann. §§ 26-2-104 and 26-2-105, and you will also forfeit to the party
3 aggrieved the sum of One Hundred Dollars (\$100.00) and all damages which may be
4 sustained by your failure to attend and produce said documents.

5 WITNESS, by the undersigned, an officer of the Court pursuant to Mont. R.
6 Civ. P. 45(a)(3).
7

8 DATED this 2nd day of August, 2017.

9 BOHYER, ERICKSON,
10 BEAUDETTE & TRANEL, P.C.
Attorneys for Defendant

11
12
13 By  _____
14 Katie C. Guffin
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CERTIFICATE OF SERVICE

I, the undersigned, a representative of the law firm of Bohyer, Erickson, Beaudette & Tranel, P.C., hereby certify that on this 2nd day of August, 2017, I served a true and complete copy of the foregoing "**Subpoena Duces Tecum to Ravalli County Weed Department**" by mailing as follows:

David T. Markette, Esq.
Dustin M. Chouinard, Esq.
Megan Winderl, Esq.
MARKETTE & CHOUINARD, P.C.
601 S. First Street
P.O. Box 515
Hamilton, MT 59840
Attorneys for Plaintiff

via Certified Mail, return receipt requested to:

Ravalli County Weed Department
329 Airport Road
Stevensville, MT 59870



Rule 45, Montana Rules of Civil Procedure, Parts D & E:

(d) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction – which may include lost earnings and reasonable attorney fees – on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance not Required.** A person commanded to produce designated documents, electronically-stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) **Objections.** A person commanded to produce designated materials or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the designated materials or to inspecting the premises – or to producing electronically-stored information in the form or forms requested. The objection must be served before the earlier of the specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expenses resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On a timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person – except that, subject to Rule 45(d)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other conditional research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically-Stored Information.** These procedures apply to producing documents or electronically-stored information:

- (A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
- (B) **Form of Producing Electronically-Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically-stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably used form or forms.
- (C) **Electronically-Stored Information Produced in Only One Form.** The person responding need not produce the same electronically-stored information in more than one form.
- (D) **Inaccessible Electronically-Stored Information.** The person responding need not provide discovery of electronically-stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly assert the claim; and
- (ii) describe the nature of the withheld documents, communication, or things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.