

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

IN THE MATTER OF THE)	SUMMARY OF FACTS AND
COMPLAINT AGAINST)	STATEMENT OF FINDINGS
PLUM CREEK TIMBER COMPANY)	

James A. Hill of Missoula, Montana, in a complaint dated October 8, 1992, and filed with this office on October 9, 1992, alleges that Plum Creek Timber Company distributed political materials attached to the paychecks of its employees at the medium density fiberboard plant (MDF Plant) in Columbia Falls, Montana, in September of 1992, prior to a general election, in violation of section 13-35-226(1), Montana Code Annotated (MCA). That section provides as follows:

It is unlawful for any employer, in paying his employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises (express or implied) calculated or intended to influence the political opinions or actions of the employees. It is unlawful for an employer to exhibit in a place where his workers or employees may be working any handbill or placard containing any threat, promise, notice, or information that in case any particular ticket or political party, organization, or candidate is elected, work in his place or establishment will cease, in whole or in part, or will be continued or increased; his place or establishment will be closed; the salaries or wages of his workers or employees will be reduced or increased; or other threats or promises (express or implied) intended or calculated to influence the political opinions or actions of his workers or employees. This section shall apply to corporations, individuals, and public officers and employees.

Violation of the statute is a misdemeanor. § 13-35-226(4), MCA.

The results of an investigation of the alleged violation are set forth in the summary of facts that follows.

SUMMARY OF FACTS

1. Plum Creek Timber Company (Plum Creek) is a corporation with operations in Montana. Plum Creek operates three mills in Montana, including a medium density fiberboard plant (MDF Plant) in Columbia Falls, Montana.

2. Mike Bleck, a Plum Creek employee in Columbia Falls, wrote a memorandum dated May 7, 1990, on Plum Creek stationery addressed to two other Plum Creek employees with a notation that copies of the memo were being provided to several other Plum Creek employees, including Dennis Robinson. The subject of the memo was entitled "NO SOLICITATION RULE." The memorandum reads as follows:

Recent requests by various political candidates have raised the issue of do we or don't we allow handbilling, leafleting, pressing the flesh, etc. on Plum Creek property.

The answer is we do not. If we allow any group or individual access to our hourly employees, on our property, then, as a practical matter we have to extend that privilege to all, and we may in fact legally lose our ability to regulate future access by others.

Please do not allow any group or individual to have any such access until and unless you have the opportunity to discuss the matter with Keith Sletten or me.

Call me right away with any questions you may have.

3. Plum Creek is a member of the Western Environmental Trade Association (WETA), an organization with a broad range of membership including private businesses and associations, labor

unions, wheat, wool and livestock growers, mining operators and outdoor users. WETA has an Ad Hoc Coalition that monitored the wilderness bill that was before the United States Congress in 1992.

4. In September 1992, Ron Johnson, Plum Creek's WETA representative, obtained some written materials concerning the wilderness bill from Peggy Wagner of Montanans for Multiple Use, another member of WETA. Johnson showed the materials to his boss, Bob Boeh, who instructed Johnson to distribute them to Plum Creek employees but Boeh gave no specific direction concerning method of distribution.

5. Johnson approached the managers of all three Montana mills owned by Plum Creek and asked them to distribute the materials to their respective plant employees. He supplied sufficient copies of the materials for distribution to all employees of the three mills.

6. Dennis Robinson is the manager of the MDF Plant in Columbia Falls. He received the subject materials from Johnson on or about September 17, 1992. He apparently decided that the most efficient way to distribute the materials was to include them with employees' paychecks. Robinson stated that he did not read the materials but did not have any concern that their distribution might be in violation of company policy or state law.

7. Robinson wrote a memo on Plum Creek stationery and gave the memo and the political materials to his secretary with instructions that they be distributed with the paychecks to the MDF plant employees. The Robinson memo, which accompanied the

political materials attached to employee paychecks, reads as follows:

The WETA Ad Hoc Coalition is planning a rally on Sunday, September 20, in response to the recent wilderness proposal by Representatives Vento and Williams. A GOOD SHOWING BY FORESTERS, LOGGERS, TRUCKERS, AND MILLWORKERS IS CRUCIAL TO SEND A CLEAR MESSAGE TO OUR ELECTED OFFICIALS!! The rally will be held at the old LP mill site on Highway 2 in Columbia Falls at 1 p.m. on Sunday. Attached is a copy of a flyer for the rally.

The liberal politicians are trying to take away our reasons for living in Montana. Let's not let it happen.

8. Copies of the Robinson memo and the political materials were stapled to the paychecks of the 120 to 130 MDF Plant employees. Distribution of the paychecks with attached materials began September 17, 1992; however, because the MDF Plant has four twelve-hour shifts, distribution was expected to take more than one day.

9. The two-page flier referred to in the memo and attached to the paychecks stated:

ACTION ALERT! ACTION ALERT! ACTION ALERT!

ARE YOU OUTRAGED AT OUT OF STATE PRESERVATIONISTS TELLING US WHERE WE SHOULD OR SHOULD NOT RIDE OUR SNOWMOBILES, TRAIL BIKES, ATV'S 4X4'S, HUNT OR FISH?

ARE YOU OUTRAGED AT OUT OF STATE PRESERVATIONISTS TELLING US HOW WE SHOULD LIVE IN MONTANA?

ARE YOU OUTRAGED AT CERTAIN MONTANA REPRESENTATIVES FOR NOT LISTENING TO MONTANA PEOPLE?

DO YOU FEEL BETRAYED?
IF SO, YOU NEED TO ATTEND THIS RALLY!

ARE YOU WILLING TO GIVE UP YOUR JOB WITHOUT A FIGHT?

ARE YOU WILLING TO GIVE UP YOUR RECREATION WITHOUT A FIGHT?

ARE YOU WILLING TO GIVE UP THE VERY REASON WHY YOU LIVE
IN MONTANA WITHOUT A FIGHT?

NO! NO! NO! NO! NO! NO!

IF YOU DON'T ATTEND THIS RALLY THAT IS EXACTLY WHAT YOU
HAVE DONE GIVEN UP!

OUT OF STATE PRESERVATIONISTS AND SOME OF OUR
CONGRESSIONAL DELEGATION ARE WILLING TO PUT YOUR JOBS
AND RECREATION ON THE LINE WITH THE VENTO WILDERNESS BILL
ENDORSED BY PAT WILLIAMS. LET THEM KNOW THAT YOU WILL
NOT STAND FOR IT ANY LONGER.

SUNDAY, SEPTEMBER 20, 1992

1:00

OLD LP MILL SITE, HWY 2 COLUMBIA FALLS
(FLATHEAD AREA PARTICIPANTS PLEASE MEET ON RAILROAD STREET TO
CONVOY TO RALLY)

BRING YOUR SNOWMOBILES, TRAIL BIKES, ATV'S, LOG TRUCKS
(empty or loaded), MOUNTAIN BIKES, GAME CARTS, WHEEL
BARROWS, ANYTHING WHICH YOU USE TO ACCESS OUR PUBLIC
LANDS. THERE SHOULD BE NO EXCUSE FOR NOT BEING THERE.
YOUR JOBS, RECREATION AND THE VERY REASON WHY YOU LIVE
HERE DEPEND ON IT!

RALLY! RALLY! RALLY! RALLY! RALLY!

EXPRESS YOUR OUTRAGE

Say "NO" to the Vento Wilderness Bill!

Representative Vento from Minnesota thinks he knows
what's best for Montana--HE DOESN'T!

MONTANANS KNOW WHAT'S BEST FOR MONTANA!

What would Vento's bill do:

- * Place 2.6 million acres in wilderness, wilderness study
and special management
- * Require the Forest Service to continue wilderness studies
in released areas--meaning manage released lands as if
they were wilderness
- * Require the creation of federal reserve water rights--
this means we will weaken the ability of the State to
manage water rights in our state under our state's water
laws

72% of Montanans have said when polled: ENOUGH WILDERNESS .
. . . NO MORE WILDERNESS!

We don't want the Congressman [sic] from Minnesota, Indiana, Pennsylvania and other non-Western states to decide what's best for us!

CALL TODAY! DON'T WAIT . . . IT'S TIME FOR YOU [SIC] VOICE TO BE HEARD.

The flier then listed the names and telephone numbers of all four of Montana's congressional members.

Also attached to the paychecks were one and one-half pages of what apparently were suggested mottoes or slogans for placards or signs to be used at the rally. Included were the following:

PAT WILLIAMS JUST COMMITTED SUICIDE IN HIS ELECTION YEAR

WILLIAMS! REMEMBER MELCHER'S ELECTION YEAR!

NO MORE WILLIAMS, WILDERNESS, OR WOLVES

NO MORE WILDERNESS/NO MORE WILLIAMS

WILLIAMS FREE IN '93'

YOU'LL NEED A JOB PAT. I HEARD THE SIERRA CLUB IS HIRING

WILLIAMS/NOT THE FUTURE FOR MONTANA FAMILIES

PHONE HOME PAT

FLATHEAD VALLEY SURROUNDED BY WILDERNESS/WILLIAMS SURROUNDED BY PRESERVATIONISTS

WE GAVE A LITTLE PAT/YOU TOOK IT ALL!

ON NOVEMBER 3RD PAT WE WILL LET YOU KNOW HOW WE FEEL

NO MORE WILLIAMS/THE FUTURE OF MONTANA FAMILIES DEPEND ON IT

PAT WILLIAMS SHOULD MOVE TO HOLLYWOOD/YOU COULD DO A BETTER JOB THERE!

Underscoring appeared in the originals. Some of the type on the two-page flier also was larger than normal.

10. Distribution of the political materials attached to paychecks apparently was confined to the MDF Plant. The other two Plum Creek mill managers apparently decided not to distribute the political materials that Johnson had provided them.

11. Plum Creek Vice President Charles Grenier stated that he did not learn of the distribution of the materials at the MDF Plant until it was already in progress.

STATEMENT OF FINDINGS

Section 13-35-226(1), Montana Code Annotated (MCA), quoted on page one, prohibits employers from including with their employees' paychecks "the name of any candidate." As noted in the summary of facts, the materials attached to the Plum Creek MDF Plant employees' paychecks included the name of Pat Williams, a candidate for the United States House of Representatives in 1992.

Moreover, the statute prohibits the inclusion with paychecks of "any political mottoes, devices, or arguments containing threats or promises (express or implied) calculated or intended to influence the political opinions or actions of the employees."

Additionally, Plum Creek had a policy prohibiting political activities at its plants as evidenced in the memorandum dated May 7, 1990, and distributed to Plum Creek administrators, including Dennis Robinson, MDF Plant Manager.

Although the WETA-generated political materials were provided to Dennis Robinson, manager of the Columbia Falls MDF Plant, by Ron Johnson, Plum Creek's WETA representative, Robinson was under no

obligation to distribute the political materials to the employees. In fact, Robinson should have been aware of the company's policy against political activities on or at its properties because he received a copy of the Mike Bleck memo dated May 7, 1990. He, therefore, was alerted over two years earlier to Plum Creek's policy not to ". . . allow handbilling, leafleting, pressing the flesh, etc. on Plum Creek property."

Even if Plum Creek did not have a company policy prohibiting distribution of political materials, section 13-35-226(1), MCA, clearly states "This section shall apply to corporations, individuals, and public officers and employees."

Perhaps most importantly, the message to all employees at the Plum Creek MDF Plant in Columbia Falls who received paychecks in September 1992, prior to a major general election, was clear. Stapled to their paychecks was a memo from their plant manager with a two-page political flier urging not merely the employees' presence at but their active participation in a rally designed to oppose a candidate for U. S. Congress.

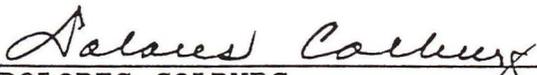
Section 13-35-226(1), Montana Code Annotated (MCA), clearly states:

It is unlawful for any employer, in paying his employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises (express or implied) calculated or intended to influence the political opinions or actions of the employees."

Based on the facts and these findings, I have determined that there is sufficient evidence to conclude that Plum Creek through

the manager of its MDF Plant in Columbia Falls probably violated section 13-35-226(1), MCA. Therefore, as section 13-37-124, MCA, requires, I shall notify the Flathead County Attorney of the apparent violation so that appropriate action may be taken.

DATED this 31st day of December, 1992.



DOLORES COLBURG
Commissioner of Political Practices