



E-Mail: [bbeavers@cforjustice.org](mailto:bbeavers@cforjustice.org)

May 27, 2008

Mark Richard  
Todd Mielke  
Bonnie Mager

Spokane County Commissioners  
1116 W. Broadway Avenue  
Spokane, WA 99260

Dear Commissioners,

I am writing on behalf of our client, Don Hamilton, regarding the County's policy on the videotaping or recording of public meetings by members of the public. Don Hamilton is a local photographer and film producer known in both the city and surrounding area. He is also a resident of the Bigelow Gulch Road area and has been an outspoken critic of the "Urban Connector Alignment (UCA)" Project- a county plan to expand and straighten Bigelow Gulch Road.

On the evening of February 15, 2006, Mr. Hamilton and numerous others attended an "open house" public meeting sponsored by Spokane County to discuss the UCA construction project and the impact it would have on their community. Mr. Hamilton brought a camera and microphone in order to videotape the response of the county officials who appeared to be providing often contradictory information to concerned residents at separate times. During his filming, he was confronted by a county deputy, who informed Mr. Hamilton that filming the responses of county engineers was a violation of state law ("two party consent" rule) and therefore illegal. The deputy expressly stated to Mr. Hamilton that he could not record the conversations. A friend of Mr. Hamilton's, attorney Tom Keefe, then informed the officer that the law was misstated, and under the Open Public Meetings Act (OPMA), both recording and videotaping open meetings was legally permissible. One of the engineers left the meeting rather than continue while being videotaped.

On February 23, 2006, Mr. Hamilton attended a County Commissioners Daily Briefing meeting. As he entered, he was recognized by several members of the meeting. When the meeting commenced, he began videotaping without incident. Twenty five minutes

later, the meeting adjourned for a short break. While mingling in the chambers, Mr. Hamilton was confronted by two courthouse security guards who demanded that he produce valid press credentials. They told Mr. Hamilton that he needed to submit to a full background check because he bypassed security. However, when Mr. Hamilton informed them that he passed through security, they left. At least two other members of the press were present and neither of them was detained.

As you are no doubt aware, Washington's two party consent law does not apply to the filming of public meetings. Indeed, in response to these incidents, Commissioner Richard, in an e-mail to Senator Lisa Brown, acknowledged that the County had "initiated a policy to clarify that public meetings are open to the public and can be recorded..." (See attached Exhibit A, M. Richard e-mail, April 19, 2006.)

On April 9, 2008, the Center for Justice sent public records requests to Spokane County and to the Spokane County Sheriff's Office requesting copies of this policy. (See attached Exhibit B, Public Records Requests.) The Sheriff's Office, on behalf of Sheriff Knezovich, responded: "[W]e have no policy governing our response to such video or audio recording and recognize that the public has a right to video or audio record any of our activities in a public setting or meeting. As such, we do not provide formalized training regarding such audio or video recording of our activities in a public setting or meeting." (See attached Exhibit C, April 11, 2008 letter). Similarly, the Spokane County's Public Disclosure Officer, Lori Zaagman-Bacon, was unable to provide any "policies" clarifying the public's right to film or record. (She was able, however, to provide a copy of Commissioner Richard's April 19, 2006 e-mail.)

While Mr. Richard and Sheriff Knezovich may know the law regarding the Open Public Meetings Act, without a formal policy, it is unclear how the County can ensure that the public's exercise of its first amendment rights is not chilled by county employees who have not had the benefit of formal clarification.

We would appreciate further clarification as to what policy was initiated by Commissioner Richard and how it is being implemented today and thank you for your timely attention to this matter.

Sincerely,



Bonne W. Beavers

cc: Senator Lisa Brown

Zaagman, Lori

**From:** Kelley, Ross [/o=spokane county/ou=galactic/cn=recipients/cn=rkelley]  
**Sent:** Thursday, April 20, 2006 8:56 AM  
**To:** Richard, Mark J.; 'Brown.lisa@leg.wa.gov'; Mielke, Todd; Harris, Phil  
**Cc:** 'Beaver.neil@leg.wa.gov'  
**Subject:** RE: Bigelow Gulch

Senator Brown,

Commissioner Richard is accurate in his response. We have held four public meetings and a public hearing to openly discuss the Bigelow Gulch project with all those who were interested and encourage comments on Federal Highway's Environmental Assessment that was published for this project. At the first of our meetings a gentleman with a large television camera appeared taping the proceedings and being very rude and disruptive to the members of the public who were in attendance. He began yelling at the top of his voice in attempt to take control the meeting and a uniformed Spokane County Sheriffs deputy had to approach him to get him to calm down.

At a second public meeting a young unidentified man appeared with a large television camera and began filming the proceedings. When he began to secretly slip up behind members of the public in private conversation and record their private conversations with a microphone without permission, a uniformed Spokane County Sheriffs deputy advised him of the two party consent law that requires permission to do audio recording of private conversations. Later we found out that both of these "cameramen" were working for a group of people who openly stated their only goal is to stop the Bigelow Gulch/Forker project by ANY means possible.

Yes, this very small group of people have been hostile, abusive and disruptive. They have tried to stop the project and interfered with the process but we have made sure that the public has been allowed free and open opportunity to learn about the project and make their comments heard. This project is Spokane County's highest priority and the public is providing overwhelming support and encouragement for us to complete Bigelow Gulch/Forker Road as soon as possible!

Ross Kelley, P. E.  
County Engineer

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**From:** Richard, Mark J.  
**Sent:** Wednesday, April 19, 2006 4:49 PM  
**To:** 'Brown, Sen. Lisa'; Mielke, Todd; Harris, Phil  
**Cc:** Beaver, Neil; Kelley, Ross  
**Subject:** RE: Bigelow Gulch

Thank you Senator.  
I believe you will find the folks complaining are also on public record indicating they will do anything possible to kill this project. It is highly likely that a vocal few are trying to make this thing seem bigger and worse than it was.

We did have one incident regarding the project where a gentleman was pushing a camera in his face and he refused to be taped. We have initiated a policy to clarify that public meetings are open to the public and can be recorded in response to this incident.

In addition, the same gentleman (this one I witnessed) stuffed his camera in our jail commanders face in our board chambers when he was asked to show his credentials.

He had a phony looking press badge, was not very polished and was acting aggressively. In the room were Jim McDivett and a U.S. Marshal so I believe commander Brady was a bit cautious.

I will cc this message to our Director of Engineering and ask that he provide you or Neil with some information.

Thank you again.

**EXHIBIT A 1**

Sincerely  
Mark Richard

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**From:** Beaver, Neil [mailto:Beaver.Neil@leg.wa.gov] **On Behalf Of** Brown, Sen. Lisa  
**Sent:** Wednesday, April 19, 2006 11:41 AM  
**To:** Richard, Mark J.; Mielke, Todd; Harris, Phil  
**Cc:** Beaver, Neil  
**Subject:** Bigelow Gulch

Commissioners

I am writing because I have received a number of troubling communications regarding the Bigelow Gulch expansion project. Each communication details a hostile public process which limited the input from a number of the area residents.

I am aware of the growing congestion problem and how important it is to resolve these issues. But I believe that the public must be kept in the process to best help the community.

I would to learn more about the project from the county on this issue. Please information to my District Office, 35 West Main, Suite 375, Spokane WA 99201 or through my Legislative Assistant Neil Beaver at [beaver.neil@leg.wa.gov](mailto:beaver.neil@leg.wa.gov).

Thank you,

Senator Lisa Brown.

P: (509) 856-5211  
F: (509) 857-3667  
COMMUNITY BUILDING  
75 WEST MAIN, STE. 300  
SPOKANE, WA 99201  
WWW.CFORJUSTICE.ORG



E-Mail: [bbeavers@cforjustice.org](mailto:bbeavers@cforjustice.org)

April 9, 2008

Spokane County  
Public Disclosure Officer  
1116 W. Broadway Avenue  
Spokane, WA 99260

I certify that I mailed a copy of this document with postage prepaid to all parties or their counsel of record on 4/9/08.  
I certify under penalty of perjury under laws of the State of Washington that the foregoing is true and correct.  
Spokane, WA 99201  
Rosie Emma 4/9/08  
Printed Name and DATE

Dear Public Disclosure Officer,

Pursuant to chapter 42.56 RCW, I am writing to request that Spokane County make the following public records available for *inspection and copying*:

- All records and correspondence in any format whatsoever, including but not limited to memoranda, e-mails, letters, voice messages, notes, presentations, or other concerning Spokane County's policy regarding audio or video recording of public meetings;
- Spokane County's policy regarding audio and/or video recording of public meetings;
- All records and correspondence in any format whatsoever, including but not limited to memoranda, e-mails, letters, voice messages, notes, presentations, or other concerning training on Spokane County's policy regarding audio and/or video recording of public meetings provided to Spokane County employees and its agents, including but not limited to County Commissioners, staff, agents, and consultants.

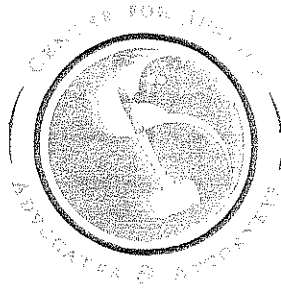
Please limit the scope of the above request to records from April 2006 to the present.

As further clarification, this is a request for inspection first and copying as necessary after review. If you have any questions regarding this request or its scope, please give me a call at the above number.

Thank you for your timely assistance in this matter.

Bonne Beavers

**EXHIBIT B**



E-Mail: [bbeavers@cforjustice.org](mailto:bbeavers@cforjustice.org)

April 9, 2008

CERTIFICATE OF FACSIMILE

I certify that I faxed a copy of this document to all parties or their counsel of record on 4/9/08

I certify under penalty of perjury under laws of the State of Washington that the foregoing is true and correct.

Spokane, WA 99201

Leslie Ennis 4/9/08  
NAME and DATE

CERTIFICATE OF MAILING

I certify that I mailed a copy of this document postage prepaid to all parties or their counsel of record on 4/9/08

I certify under penalty of perjury under laws of the State of Washington that the foregoing is true and correct.

Spokane, WA 99201

Leslie Ennis 4/9/08  
NAME and DATE

Spokane County Sheriff's Office  
Public Records Division  
Public Disclosure Officer  
1100 W Mallon  
Spokane WA 99260  
Fax: 625.4059

Dear Lt Howerton and/or Public Disclosure Officer,

Pursuant to chapter 42.56 RCW, I am writing to request that the Spokane County Sheriff's Office make the following public records available for *inspection and copying*:

- All records and correspondence in any format whatsoever, including but not limited to memoranda, e-mails, letters, voice messages, notes, presentations, or other concerning Spokane County and/or the Spokane County Sheriff's Office's policy regarding audio or video recording of public meetings;
- Spokane County and/or the Spokane County Sheriff's Office's policy regarding audio and/or video recording of public meetings;
- All records and correspondence in any format whatsoever, including but not limited to memoranda, e-mails, letters, voice messages, notes, presentations, or other concerning training on Spokane County's and/or Spokane County Sheriff's Office's policy regarding audio and/or video recording of public meetings provided to the Spokane County Sheriff's Office's employees, including but not limited to sheriff's deputies.

Please limit the scope of the above request to records from April 2006 to the present.

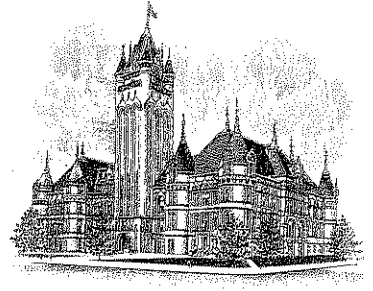
As further clarification, this is a request for inspection first and copying as necessary after review. If you have any questions regarding this request or its scope, please give me a call at the above number.

Thank you for your timely assistance in this matter.

Bonne Beavers



Spokane County Sheriff's Office  
Ozzie D. Knezovich, Sheriff



*"In partnership with the community - Dedicated to your safety"*

April 11, 2008

Center for Justice  
Bonne Beavers  
Community Building  
35 W Main Ste 300  
Spokane WA 99201

RECEIVED  
APR 14 2008  
CENTER FOR JUSTICE

Dear Ms. Beavers;

RE: *Public Disclosure request received April 9, 2008 and dated April 9, 2008.*

Pursuant to RCW 42.56.520, this correspondence will act as acknowledgement of receipt of the above-referenced public records request directed to the Spokane County Sheriff's Office regarding the following:

- All records and correspondence in any format whatsoever, including but not limited to memoranda, e-mails, letters, voice messages, notes, presentations, or other concerning Spokane County and/or the Spokane County Sheriff's Office's policy regarding audio or video recording of public meetings;
- Spokane County and/or the Spokane County Sheriff's Office's policy regarding audio and/or video recording of public meetings;
- All records and correspondence in any format whatsoever, including but not limited to memoranda, e-mails, letters, voice messages, notes, presentations, or other concerning training on Spokane County and/or the Spokane County Sheriff's Office's policy regarding audio or video recording of public meetings provided to the Sheriff's Office employees, including but not limited to sheriff's deputies.
- Please limit the scope of the above request to records from April 2006 to the present.

Per our conversation of April 10, 2008, I understand that you are interested in our policy, training, etc., regarding private persons recording, whether audio or video, our activities when we are present for a public meeting, demonstration, etc.

As such, we have no policy governing our response to such video or audio recording and recognize that the public has the right to video or audio record any of our activities in a public setting or meeting.

As such, we do not provide formalized training regarding such audio or video recording of our activities in a public setting or meeting.

**EXHIBIT C**

We will conduct research as to your request regarding records and correspondence in any format whatsoever that fall within your particular request and I will follow up with correspondence as to the disposition of that research.

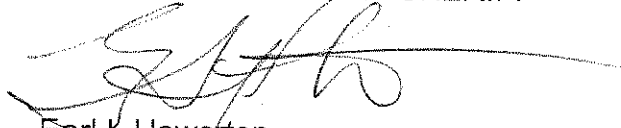
Pursuant to the provisions of RCW 42.56, upon receipt of a Public Disclosure Request an agency is required, within five (5) business days, to provide a "reasonable timeframe" to respond. Consistent with those provisions, please be advised that I presently intend to research for the aforementioned items and, if located, gather the documents and recordings falling within the perimeters of your Public Disclosure Request, review them for exemptions under RCW 42.56 and make them available to you on or before May 15, 2008. If for any reason whatsoever I need additional time, I will immediately contact you with a revised date.

Pursuant to the provisions of RCW 42.56.085, I have attached our current fee schedule for future requests.

If you have any questions please call me 477-4754.

Sincerely,

OZZIE D. KNEZOVICH - SHERIFF

A handwritten signature in black ink, appearing to read 'Earl L. Howerton', written over a horizontal line.

Earl L. Howerton  
Office of Professional Standards, Lieutenant