

MEMO

DATE: October 26, 2015

TO: Water Policy Interim Study Committee
Attn: Jason Mohr

FROM: Tara DePuy, Land Use Attorney, MACo/PCT

RE: Request for Information for Water Availability and Supply

Dear Committee Members and Mr. Mohr:

The Montana Association of Counties (MACo) is a non-profit organization that represents all of the fifty-six counties in Montana. It is challenging to represent uniformly fifty-six counties with different climates, water issues and development needs. Water availability and supply differs drastically across the State of Montana.

MACo's goals for the last several legislative sessions in regards to the issues of water availability and supply has been to ensure that (1) any legislation is based on site specific scientific information and (2) that County Commissioners do not become the entity to determine if water is legally available for development. MACo supported the enactment of legislation for Stream Depletion Zones because it was based on site specific scientific data. MACo opposed any changes to the Montana Subdivision and Platting Act that would have expanded the county's review of water availability and quality. The Montana Subdivision and Platting Act does not require a county to determine if water is legally available; that determination is only within the purview of the Montana Department of Natural Resources and Conservation and should remain with DNRC.

MACo's committees comprised of county commissioners adopt policies that guide MACo's position on legislation. The pertinent policies adopted by MACo are as follows:

MACo supports water policy that continues to allow the de minimis use of exempt well water for agriculture, homes, and small businesses without the burden of the water right permitting process; and opposes changes to water policy that would unnecessarily increase the cost associated with accessing water; changes to water policy that limit the county's ability to properly plan, zone for growth, or review and condition subdivision applications; changes to water policy that would negatively affect the county's ability to meet Wildland Urban Interface requirements; and changes to water policy that may create added weed infestation in Montana.

MACo affirms the need for responsible county planning and community development in all counties in the state by recognizing that counties are the most appropriate governmental unit to oversee new development in the county and assess the economic impact. Cooperation by counties will afford the advantages of well-planned use of land, preserved open space, less urban sprawl, and a more efficient delivery of public services.

MACo supports uniting all levels of government to combat the spread of noxious weeds, which is rapidly increasing and having a statewide impact on agricultural crop production and is diminishing forage capacity for livestock and wildlife as well.

MACo supports the active management of noxious weeds on all county, state, federal, and tribal lands in Montana and recommends cooperative agreements and funding sources to implement said management.

MACo is very concerned that water supply and availability is being used as a tool to limit the counties' abilities to determine appropriate development in their county with limited scientific information backing the need to change the Montana Water Policy Act. MACo is also very concerned that limiting the availability and supply of water in subdivisions will result in limited green spaces around homes for fire protection and the proliferation of noxious weeds on the remaining portion of the subdivision lots.

MACo stresses that there are currently statutory process in state law to address water availability and supply, those being the Stream Depletion Zones and Controlled Groundwater Areas. Any other changes to the Water Policy Act should be based on site specific science and leave intact each county's ability to appropriately plan for development in their communities.

MACo Contacts:

Harold Blattie
MACo Executive Director
2715 Skyway Drive, Suite A
Helena, MT 59602
449-4360, ext. 4366
hblattie@mtcounties.org

Tara DePuy
MACo/PCT Land Use Attorney
PO Box 222
Livingston, MT 59047
223-1803
attorney@riverworks.net