

**MONTANA ASSOCIATION OF REGISTERED LAND SURVEYORS (MARLS)
CONCERNS WITH SB173**

NEW SECTION Section 3 – A 100-yard setback from the ordinary high water mark or the 100-year floodplain, whichever is greater, could create a setback several times the 100 yards. The distance between the normal high water mark and the 100-year floodplain delineation could be considerable.

If the river were one similar to the upper Gallatin, 100 yards from the ordinary high water mark would, in most cases, put the building site high up on the side of a steep mountain which would be unbuildable.

A 300-foot set back from a river will have significant impact on river properties. In many locations lands are well above and out of any floodplain or wetlands and at this distance could likely be out of site of the river. The end result will make many streamside properties worthless. Such large setbacks take away common sense and flexibility by applying one template to all bodies of water.

Any “blanket & uniform” setback from a stream and/or river is illogical on its face. This makes the assumption that all streams and rivers in Montana are the same, which is clearly not the case. In some instances a 30 yard setback from a stream or a 90 yard setback from a river might make a lot of sense, however in other instances this might not be enough of a setback to achieve the stated goals of the legislation, whereas in others it might be excessive.

NEW SECTION Section 8 – Provides for nonconforming uses. With all variances a hardship must be proven at considerable expense to the landowner. In Western Montana many land buyers want a place with timber, adjoining the National Forest, with a creek running through it. The proposed legislation would force the building site too far away from the creek to enjoy it.

The legislation tends to be anti-growth and will not make common sense when applied to many situations. In addition the legislation could easily result in a “takings” of property without compensation. If it is the intention of the legislature to make river banks and streams totally void of development then the State of Montana should be looking at purchasing all the effected land within the waterside management corridor. The cost would be extreme.