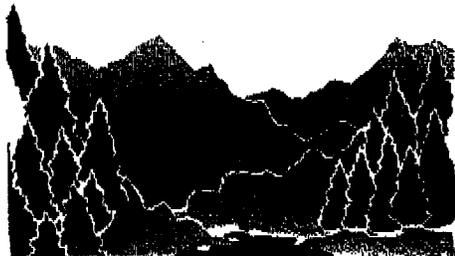


DATE 2.16.09



LAKE COUNTY ENVIRONMENTAL HEALTH SB392

106 FOURTH AVENUE EAST
POLSON, MT 59860-2175PH: 406-883-7236 FAX: 406-883-7205
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February 12, 2009

Senator John Esp, Chairman
Senate Local Government Committee
P.O. Box 200500
Helena, Montana 59620-0500

Post-it* Fax Note	7871	Date	2/12/09	# of pages	2
To	VERDELL JACKSON	From	Terry Murphy		
Co./Dept.	Senate Local	Co.	Lake Co. Env.		
Phone #	Govt. Committee	Phone #	Health		
Fax #	406-444-2875	Fax #	406-883-7205		

RE: **Letter of Support**
Senate Bill 392 – Voluntary Sanitation in Subdivision Review

Chairman Esp and Members of the Committee:

This letter is in support of Senate Bill 392 on Voluntary Sanitation in Subdivision Review for the following reasons:

1. **Allows Existing Lots to Obtain a Certificate of Subdivision Approval**

The Montana Sanitation in Subdivisions Act, MCA76-4, provides for the review of water, wastewater, solid waste and stormwater in proposed subdivisions. The subdivision application is generally prepared by an environmental consultant to be reviewed and approved by the Montana Department of Environmental Quality. The resulting Certificate of Subdivision Approval (COSA) provides a permanent, legally binding document that confirms each lot of the subdivision can be developed and also includes an approved lot layout. This assures any owner, seller, buyer, or realtor that the property is developable in a prescribed way. The COSA is, therefore, an asset for the property owner.

An additional benefit of a COSA is that an approved well location and/or drainfield location has a legal status even before it is constructed. This assures that a neighboring property cannot be developed in a way that impacts these approved facility locations.

Current law does not allow for an existing lot without a COSA to go through the sanitation review process to obtain this valuable document.

Lake County has many lots – especially lakeshore lots – that would benefit from having a COSA. These lots were platted in the early 1900's and are often difficult to develop due to small lot size, steep slopes, bedrock conditions, and proximity to the lake. A COSA would allow the owner, seller, buyer, and realtor to have a document that provides legal assurance that these often very expensive lots are developable and that the facilities cannot legally be impacted by new development on adjoining properties.

This bill would allow for a COSA to be issued for an existing lot if it can meet the state environmental standards to protect public health and the environment. If it cannot meet the state requirements for a COSA, there is no negative impact to the property. It would just remain subject to development under Local Board of Health wastewater regulations.

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2. **Allows for MDEQ COSAs to Apply to Lots of Any Size**

The Sanitation in Subdivisions Act MCA76-4 requires any proposed subdivision lot less than 20 acres in size be reviewed by the Montana Department of Environmental Quality. Proposed subdivision lots from 20 -160 acres must be reviewed and approved by the county environmental health department. This bill would allow lots of any size to be reviewed through the MDEQ and obtain a COSA.

The benefit of a large parcel having a MDEQ COSA rather than county approval is that the approved lot, if further subdivided into a parcel smaller than 20 acres, can use an exemption provided by state rule that the previously approved water, wastewater, solid waste and stormwater facilities are not being impacted by the new division. Therefore, the lot will not have to go through again. This saves the property owner the expense of additional review, as all environmental standards have already been met.

3. **Allows for Seamless Review of Subdivisions with Mixed Lot Sizes**

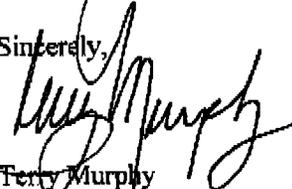
Some subdivisions are a mix of lots less than twenty acres and more than twenty acres. Current law requires those lots under 20 acres be reviewed by MDEQ and those lots 20 - 160 acres be reviewed by the county. These same subdivisions often have roadways, water systems, and wastewater systems that are shared by the full subdivision. These shared systems usually have engineered designs that must be reviewed by MDEQ engineers. Having both county and state review processes in one subdivision makes for a rather disjointed approach to subdivision review.

Senate Bill 392 would allow for the full subdivision to be reviewed by MDEQ which provides for a more seamless and consistent review. And, it results in one COSA that applies to the full subdivision rather than having both a MDEQ COSA and a county approval document.

This is a simple bill with no apparent negative side. It provides the ability for owners of existing lots to gain the asset of a Certificate of Subdivision Approval issued by the MDEQ. It also may facilitate the subdivision review process for property owners with larger lots. It has the added benefit that both public health and the environment are well-served and well-protected in the process.

Thank you for your consideration of my comments urging support of Senate Bill 392.

Sincerely,



Terry Murphy
Registered Sanitarian
State Certified Subdivision Reviewer