



SENATE NATURAL RESOURCES

ENRITBHT NO. 1

DATE 2/2/11

BILL NO. SB 239

Brian Schweitzer, Governor  
Richard H. Opper, Director

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

SB 239

**Senate Natural Resources Committee**

**February 2, 2011**

The Federal Safe Drinking Water Act (SDWA) charged the Environmental Protection Agency (EPA) with writing and enforcing minimum drinking water standards to protect public health. These drinking water regulations apply to all systems meeting the definition of a public water supply.

Congress also authorized EPA to develop a process where a state could become the primary enforcement agent for the SDWA requirements within that state. This agreement is commonly referred to as Primacy and Montana is such a state. By accepting Primacy a state is eligible for federal grants to assist both the state and the water systems in implementing the requirements. These grants known as the Public Water Program Administration Grant or the Performance Partnership Grant and the Drinking Water State Revolving Fund Grant, total just over \$3 million annually for the state to implement the federal requirements and over \$6 million annually goes for loans and grants to water systems.

For a state to become the primary enforcement agency for the SDWA requirements, the state must be able to enforce the minimum federal standards at all public water supply systems within the state. The changes proposed in SB 239 to eliminate the state's ability to enforce the regulations at public water systems may well result in an EPA making the determination that Montana is not meeting its primary enforcement responsibilities. If EPA makes such a determination, EPA would withhold any further drinking water grants and assume the duties of the primary enforcement agency for the Safe Drinking Water Act within the state. The withheld grants would be used to fund EPA's implementation and enforcement of the regulations in the state.

There are two separate entities that have authority to implement regulations at public water supplies within the state of Montana. There is the state itself with primacy approval and there is the EPA. The proposed changes in SB 239 do not remove requirements, only the Department's ability to enforce those requirements. EPA meets quarterly with the state to go over the list of violations at public water supplies and we must indicate what actions are being taken to return the systems to compliance. If the state does not enforce the regulations, EPA will. The public water supplies will not see any benefit from this bill.

As a point of interest concerning enforcement at public water systems, the Department has had some systems actually request the Department start enforcement. It seems they can

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get higher scores with funding agencies if they have documented problems needing fixed. And it is quite common for Department to issue enforcement actions without any penalties and with sufficient time to pursue funding options that have defined cycles.

I encourage you to give SB 239 a do not pass.



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SENATE NATURAL RESOURCES

EXHIBIT NO. 1

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