
From: Slsnipper@aol.com
Sent: Sunday, September 12, 2010 9:27 PM
To: Theisen, Maureen
Cc: slsnipper@aol.com
Subject: Letter to Mr. Vincent for EQC meeting 9/13 & 9/14 re: CAPS

Dear Ms. Theisen,

Could you please deliver the following letter to Mr. Vincent to be included in the record for the meeting dealing with CAPS, on 9/14? Thank you very much.

Mr. Chas. Vincent, Chair
Montana Environmental Quality Council (EQC)
State Capitol, Room 172
Helena, MT 59601

Re: Environmental Quality Council meeting, 9/13 & 9/14
Agenda Item: FWP – Critical Areas Planning System (CAPS)

Dear Mr. Vincent,

I believe that your agency is responsible for the review of state programs related to the environment to ensure compliance with the Montana Environmental Policy Act (MEPA), and that you are reviewing the CAPS program on Tuesday, September 14th as part of your agency's oversight.

This week, I read with dismay an article in The Madisonian (local paper in Ennis), which covered the Madison County Planning Board's meeting on August 30, 2010 during which the board members contemplated streamside setbacks. At this meeting, Doris Fischer, an employee of Fish, Wildlife and Parks (FWP) and formerly the Madison County Planning Director, presented the CAPS tool to the Planning Board members with FWP's recommendation for a total setback of 300 feet.

My husband and I own land on the Madison River, and this land represents a substantial part of our retirement assets. While I was unable to attend the 8/30 meeting because of a family emergency, my husband was there, and questioned Ms. Fischer on aspects of her presentation. At one point, in response to one of the questions about the role of cattle eating streamside vegetation when humans aren't supposed to disturb the same plants, she indicated that she wasn't a biologist and she didn't know. Perhaps persons providing CAPS consultations, such as that given at the 8/30 board meeting, should be adequately prepared to answer such questions. I believe that reasonable questions should be given serious consideration and, if no answer is immediately available, a commitment should be made to find the answer and provide it in a follow-up communication.

With this in mind, it seems that the purpose of CAPS is to influence planning decisions at the local levels of government. Certainly, according to citations in The Madisonian, this "tool" seemed to be the main focus and deciding factor in the Board's support of a 300-foot setback. In addition, I believe that "Appendix C – Rationale for Recommended Wildlife and Wildlife Habitat Standards, with Pertinent Scientific References," which may not be a part of CAPS but which accompanies the FWP personnel recommendations and rationale, is being erroneously applied as it relates to the "science" surrounding streamside setbacks.

Now, I am not an attorney, and sometimes I have a very difficult time processing all of the information available to arrive at some general understanding of the issues. I do not plan to bore you with the details, but after reading Appendix C, and several of the scientific studies cited therein, I still come to the conclusion that the scientific literature is being regurgitated and misconstrued to support setbacks where little or no riparian area exists, rather than applying these studies to the areas that they were meant to support. If this is being done on the subject of waterways, what else is being misstated or misrepresented in the name of environmental protection?

Again, I stress that I am not an attorney, but being curious about the EQC's role, I was further drawn into the Montana Environmental Policy Act (MEPA), and I find that the MCA, 75-1-102(2) states:

"The purpose of parts 1 through 3 of this chapter is to declare a state policy that will encourage productive and enjoyable harmony between humans and their environment, **to protect the right to use and enjoy private property free of undue government regulation**, to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humans, to enrich the understanding of the ecological systems and natural resources important to the state, and to establish an environmental quality council."

In addition, MCA 75-1-103(3) states:

"The legislature recognizes that each person is entitled to a healthful environment, **that each person is entitled to use and enjoy that person's private property free of undue government regulation**, that each person has the right to pursue life's basic necessities, and that each person has a responsibility to contribute to the preservation and enhancement of the environment. The implementation of these rights requires the balancing of the competing interests associated with the rights by the legislature in order to protect the public health, safety, and welfare."

Am I taking these out of context? Perhaps you can shed light on the role of the EQC in this regard. I understand that the legislature has the right to use its power to balance competing interests, but does this same right extend to the local level and input from other state agencies such as the FWP? Does the EQC oversee state agencies such as the FWP, and the use of taxpayer dollars to fund programs/research (CAPS) that will be used to influence public policy? What is the future intended use of CAPS, and what qualifications will employees disseminating this information be required to have? If recommendations will be provided by FWP employees, shouldn't the "science" be quoted/interpreted in its purest, intended context (i.e. riparian areas not being generalized into standard setbacks having nothing to do with riparian cover, which may in fact be non-existent or minimal and therefore of no value in providing cover for riparian wildlife?)

I would very much appreciate your response to my concerns, as there is a lot at stake here for my husband and I, and it seems that our Planning Board is using CAPS to justify their recommendation to the County Commissioners to implement an ill-advised, and much-opposed, streamside setback.

Sincerely,

Lorraine Snipper

Lorraine Snipper

(208) 558-7360