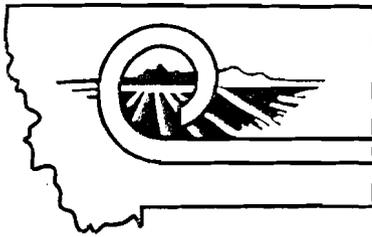


March 9 and 10, 2004

Ex. No. 2



**Montana Association of Conservation Districts**

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March 2, 2004

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The Honorable Judy Martz  
Post Office Box 200801  
Helena, Montana, 59620-0801

Dear Governor Martz:

The Montana Association of Conservation Districts (MACD) is astonished and exasperated that at the January 15 Environmental Quality Council (EQC) meeting and in other venues, the Department of Environmental Quality (DEQ) cited public involvement and conservation districts (CDs) as reasons why the Total Maximum Daily Load (TMDL) program is continually failing to meet deadlines. Nothing could be further from the truth.

Since the creation of the TMDL program in Montana seven years ago, conservation districts have consistently voiced serious concerns regarding its direction and implementation. Nevertheless, recognizing their role as locally elected officials tasked with helping their constituents deal effectively with natural resource issues, CD supervisors in many districts stepped up to the plate and worked with the DEQ locally on TMDL plans. At the same time, given their serious misgivings about how the program is being administered, conservation districts also worked to resolve the programmatic problems on the state level.

There have been a multitude of meetings over the years about these programmatic issues, including quarterly meetings with the DEQ staff and MACD representatives. Furthermore, the CDs have representatives on both the State TMDL Advisory Group (STAG) and Water Activities Work Group (WAWG). In all of these arenas, however, suggestions made by CD representatives were repeatedly ignored.

Now, regrettably—but not surprisingly to many in the conservation district community—the opportunity for any meaningful public input regarding TMDL plans has been eliminated for most Montanans. As reported on the DEQ website, in seven years DEQ has written 43 accepted plans. This leaves more than 800 water bodies on the 1996 303(d) list to be addressed. True local input and adequate data gathering on all remaining streams is quite impossible now because only a little more than three years remain until the May, 2007 court-imposed deadline.

To be clear, the low number of completed plans is not because the conservation districts have been dragging their feet. Quite the contrary, there are repeated examples all over the state where CDs have utilized their limited resources to complete TMDL activities, only to wait months—if not years—for some kind of official response from DEQ.

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**The Honorable Judy Martz**  
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MACD acknowledges DEQ's difficult circumstances with lawsuits and staff turnover but these difficulties are not the responsibility of conservation districts. Furthermore, these kinds of problems should not continually cause a absolute breakdown in effective agency management of this program, particularly when TMDL funding, from both state and federal sources, has been repeatedly increased.

For illustration purposes, I would like to share with you just the latest in an endless installment of examples highlighting the disarray in the TMDL program. On February 25, 2004 MACD received notice that a draft copy of the "Citizen's Handbook on TMDLs" would not be possible for at least a couple of months because **two important elements in the TMDL program have not been settled**. They are: 1) future public participation and 2) some of the technical elements of the TMDL plan.

I submit to you that there are fundamental internal problems with a Department that—if for seven years—these kinds of basic program elements have been unknown. If DEQ cannot effectively articulate these items right now in a citizen's handbook, how can they be surprised that citizens are hesitant about participating? The public doesn't know what they are getting into because DEQ can't tell them; they have apparently not figured it out themselves yet.

There may be some explanations for the current state of the program that are based on circumstances beyond the department's control. However, working with CDs is not one of them. Conservation districts are very troubled with the notion of public input being made the scapegoat of this failing program.

Sincerely,



Robert Fossum  
President, MACD  
& Supervisor, Valley County Conservation District

cc: Mr. Tom Beck  
Environmental Quality Council Members  
Ms. Jan Sensibaugh