



# ENVIRONMENTAL QUALITY COUNCIL

PO BOX 201704  
HELENA, MONTANA 59620-1704  
(406) 444-3742

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March 16, 2012

Mary Sexton, Director  
Department of Natural Resources and Conservation  
P.O. Box 201601  
Helena, MT 59620

Director Sexton,

The Environmental Quality Council at its March 2012 meeting voted unanimously to request your agency to draft rules to implement Senate Bill 35, passed by the 2011 Legislature and signed by the Governor, as soon as possible.

As you know, this bill was requested by the EQC as well as the Water Policy Interim Committee. It passed both chambers with large bipartisan support. This bill became effective October 1, 2011, meaning that a person who historically used the bed of a river that was navigable on that date could request a lease, license, or easement for that use from the DNRC under the historic use section of the bill. The opportunity for people to take advantage of this section expires on July 15, 2017. The bill requires that rules be adopted to determine the full market value for the use of the bed of a navigable river and to establish a minimum payment for leases and easements.

Even though the law is in effect, the lack of rules implementing the legislation renders it ineffective.

The EQC requests that rules be drafted to implement the law and, at the very least, be presented in draft form to the committee at its next meeting.

Furthermore, the legislation required that the DNRC issue notice of the requirements of the law to owners of property adjacent to rivers that were deemed navigable as of October 1, 2011. The department has failed to implement this section of the law. While the ownership of some riverbeds is in question pending court action, the law stated that notice be provided for rivers deemed navigable as of October 1, 2011. The EQC voted, 9-5, to request that the agency comply with the law and provide this notice.

Again, the EQC requests your agencies compliance with the law in an expedient manner.

Sincerely,

Sen. Jim Keane, Chair

Rep. Duane Ankney, Vice Chair

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EQC  
May 3, 2012  
Exhibit 9