



ENVIRONMENTAL QUALITY COUNCIL

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

**GOVERNOR BRIAN SCHWEITZER
DESIGNATED REPRESENTATIVE**

HOUSE MEMBERS

DUANE ANKNEY--Vice
JERRY BENNETT
BILL MCCHESENEY
MICHELE REINHART
CARY SMITH
KATHLEEN WILLIAMS

SENATE MEMBERS

JIM KEANE--Chair
JOHN BRENDEN
BRADLEY MAXON HAMLETT
RICK RIPLEY
CHAS VINCENT
GENE VUCKOVICH

PUBLIC MEMBERS

DEXTER BUSBY
DIANE CONRADI
MARY FITZPATRICK
JOHN YOUNGBERG

COUNCIL STAFF

JASON MOHR, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
HELEN THIGPEN, Staff Attorney
KEVIN MCCUE, Secretary
JOE KOLMAN, Legislative Environmental Analyst

Aug. 27, 2012

To: Environmental Quality Council (EQC) members

From: EQC staff

Re: Public comment related to LC9020

In May, the EQC approved draft legislation to eliminate a Department of Natural Resources and Conservation (DNRC) progress report on the designation of wildland-urban interface parcels. This legislation is related to HB142, which requires interim committees to review statutorily required agency reports and statutorily established advisory councils.

The documents were posted for a 30-day public comment period that ended on August 22. A request for comment was posted on the EQC Listserv, included in the *Interim* newsletter, and sent out on Newslinks.

One comment was received by the deadline and is attached. Please review it prior to our September meeting. The draft legislation is also attached.

If additional comments are received in the meantime, copies will be provided in your meeting folder on September 12.

CL5923 2240OMXA.

Unofficial Draft Copy

As of: August 17, 2012 (9:12am)

LC9020

**** Bill No. ****

Introduced By *****

By Request of the Environmental Quality Council

A Bill for an Act entitled: "An Act eliminating the requirement that the Department of Natural Resources and Conservation submit a progress report for the designation of wildland-urban interface parcels to an interim legislative committee; amending section 76-13-145, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-13-145, MCA, is amended to read:

"76-13-145. Designation of wildland-urban interface parcels. (1) ~~Prior to January 1, 2012, and subject~~ Subject to the provisions of this section, the department shall identify the parcels of property in the state that are considered to be wildland-urban interface parcels, delineate those parcels on maps, and ensure that the maps and information on the maps are available to the public, local governing bodies, and governmental fire agencies organized under Title 7, chapter 33.

(2) (a) Except as provided in subsection (2)(b), the department shall identify a county's wildland-urban interface parcels based on the wildland-urban interface designation developed as part of the county's completion of a community wildfire protection plan under 16 U.S.C. 6501, et seq., the Healthy Forests Restoration Act of 2003.

Unofficial Draft Copy

As of: August 17, 2012 (9:12am)

LC9020

(b) If a community wildfire protection plan has not been adopted, the department shall:

(i) provide notice to the county governing body that the department intends to designate the wildland-urban interface within the county's jurisdictional boundary;

(ii) allow up to 18 months for the county to complete and adopt a community wildfire protection plan if a county had begun the process of developing a plan prior to receiving the notice from the department under subsection (2)(b)(i);

(iii) review and consider the analysis of the potential for fire and wildland fire in the county's growth policy, as required in 76-1-601(3)(j) if a growth policy has been adopted;

(iv) consult with the county governing body and governmental fire agencies organized under Title 7, chapter 33, regarding appropriate parcels to designate as wildland-urban interface parcels; and

(v) clearly identify and make available to the county governing body and governmental fire agencies the criteria the department intends to use in designating parcels.

(3) Location of a property within the wildland-urban interface designated under this section may not be the sole reason for assessing additional fire protection fees, impact fees, or other fees against the property.

~~(4) The department shall report its progress in designating wildland-urban interface parcels to an appropriate interim legislative committee assigned to study wildland fire suppression or to the environmental quality council.~~

Unofficial Draft Copy

As of: August 17, 2012 (9:12am)

LC9020

~~(5)~~ (4) The department shall review each county's wildland-urban interface designation every 5 years, make changes as necessary, and maintain accurate maps and other identifying information."

{*Internal References to 76-13-145:
76-3-608X*}

NEW SECTION. **Section 2. {standard} Effective date.** [This act] is effective on passage and approval.

- END -

{Name : Jason Mohr
Title : Research analyst
Agency: Legislative Environmental Policy Office
Phone : 444-1640
E-Mail: jmohr2@mt.gov}

From: niki@redquillranch.com

To: Mohr, Jason

Subject: LC9020

Date: Wednesday, July 25, 2012 8:31:29 AM

To: EQC

Re: LC9020

Dear Interim Committee,

The problem: Anything that has to do with the "Wildlands Project" and designating private property as dangerous, unbuildable, uninhabitable and or requiring a 1,000 gpm amount of water should be recinded from

Montana statute. All banks only require 3 gpm! The State of Montana Constitution is built upon property rights. The Wildlands Project is the direct opposite of our two constitutions. The goal of the Wildlands Project is to

stop all growth and building across the U.S.

Imagine a husband and wife working three jobs to get ahead, paying on a piece of property for 30 years, then they are sucked into the Wildlands mapping and they can't build their retirement home or even sell the land.

Missoula commissioners told me that their Wildland-Urban Interface Map includes and encompasses the trees along Brooks Avenue, the heart of the University District - nowhere close to a forest or or at the outer most reaches of a rural area! In this severely run local government, the Wildlands Project is being used for complete control of peoples property.

Question: Is the goal of not listing all new parcels added to this mapping so that landowners don't know that their land has been placed within the Wildlands Project?

1. There has to be transparency when changing the value of a persons land. 2. There has to be landowners input when changing the value of a persons land. 3. There has to be the ability of the landowner to change the outcome of the regulations or changes to the value of a persons land.

4. There has to be input of landowner prior to the agency assessment. 5. There has to be scientific evidence (not by agency) as to why the regulation is taking value away from landowner. 6. The agency regulations

may not be larger that the original intent of the law created by the citizens representatives. If these six steps are not done, the regulations are illegal.

If agency takes the value away from "highest and best use" it is a takings...imagine if owners of every parcel placed within the Wildland-Urban Interface map sue their local government??

True, there are fires in Montana each and every year. In the last week, six campfires from campers were left unattended. Mental firebugs, lightening stikes and "prescribed burns" account for the rest. Homeowners,

ranchers and farmers care for their land and aren't the ones that start fires. Also, landowners don't need to be on the Wildlands Map to obtain a grant to clear out brush from DNRC.

Conclusion: So why the mapping? Google "wildlands Project" if you want the answer.