MONTANA ASSOCIATION of CONSERVATION DISTRICTS

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Resolution 23-02

Resolution type: Policy Statement

Passed as amended at 2023 MACD Annual Convention

Natural Water Bodies and Land Preservation Disclosure

Submitted by: Missoula Conservation District

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1. BACKGROUND DESCRIBING ISSUE *

(Please clearly describe for Committee and MACD Board discussion; This will not be included in the MACD Policy Book. This is generally where background information that would be in "whereas" statements should go). This information will be kept on file at MACD. The sponsoring district should also keep a copy of the final resolution for their records.

Many violators of the Montana Natural Streambed and Land Preservation Act (310 Law) say they have never heard of the law, yet there is a disclosure on every residential real estate contract. The disclosure, called the Natural Water Bodies and Land Preservation Disclosure (Lines 187-194 of a Residential Offer to Purchase) states: *"Buyers of property in the State of Montana should be aware that some properties contain or are adjacent to streams, rivers, wetlands, floodplains and other water bodies. It is the general policy of the State of Montana that natural water bodies and the lands immediately adjacent to them are to be protected and preserved to be available in their natural or existing state, and to prohibit unauthorized projects related thereto. Property owners should consult their local soil conservation board, a land use profession, or other qualified advisor, regarding any applicable local, state or federal regulations, including permitting or other approvals, before working in or around any streams, rivers, wetlands, floodplains or other water bodies, including vegetation removal."*

We believe this disclosure could be a little more clear and helpful if it stated: It is the general policy of the State of Montana, under the Montana Natural Streambed and Land Preservation Act of 1975 (310 Law), that...

And

Property owners should consult their local conservation district, a land use professional…

Having the whole disclosure read:

"Natural Water Bodies and Land Preservation Disclosure: Buyers of property in the State of Montana should be aware that some properties contain or are adjacent to streams, rivers, wetlands, floodplains and other water bodies. It is the general policy of the State of Montana, ***under the Montana Natural Streambed and Land Preservation Act of 1975 (310 Law)****, that natural water bodies and the lands immediately adjacent to them are to be protected and preserved to be available in their natural or existing state, and to prohibit unauthorized projects related thereto. Property owners should consult their local* ***conservation district****, a land use profession, or other qualified advisor, regarding any applicable local, state or federal regulations, including permitting or other approvals, before working in or around any streams, rivers, wetlands, floodplains or other water bodies, including vegetation removal."*

We also believe this statement should be added to every commercial and vacant land offer to purchase as well. We would like MACD to work with the Montana Association of REALTORS® (MAR) to amend their contracts and get this language addended.

2. **SPONSOR(S) ACTIONS TO DATE ***
   (What has been done to address the issue, which agencies and organizations have also addressed this?)

The Missoula Conservation District has worked with the Missoula Association of REALTORS® to make sure they are aware of the 310 Law. We have applied to be an official instructor and been approved to teach a continuing education class called "Property and Water Bodies: How to Interpret the Natural Water Bodies & Land Preservation Disclosure,"

3. **ACTUAL POLICY STATEMENT TO BE INCLUDED IN MACD POLICY BOOK IF ADOPTED ***
   (Please clearly and concisely, using active verbs, state the specific authority and action to direct MACD; Policy statements should make sense even without the background. THIS IS GENERALLY WHERE THE CONTENT OF A "THEREFORE" STATEMENT WOULD GO.)

The MACD recommends that MAR include the following disclosure on all residential, commercial, and vacant land offers to purchase:

"Natural Water Bodies and Land Preservation Disclosure: Buyers of property in the State of Montana should be aware that some properties contain or are adjacent to streams, rivers, wetlands, floodplains and other water bodies. It is the general policy of the State of Montana, ***under the Montana Natural Streambed and Land Preservation Act of 1975 (310 Law)****, that natural water bodies and the lands immediately adjacent to them are to be protected and preserved to be available in their natural or existing state, and to prohibit unauthorized projects related thereto. Property owners should consult their local* ***Conservation District****, a land use professional, or other qualified advisor, regarding any applicable local, state or federal regulations, including permitting or other approvals, before working in or around any streams, rivers, wetlands, floodplains or other water bodies, including vegetation removal."*

4. **HOW WILL YOUR DISTRICT CONTINUE TO SUPPORT AND BE INVOLVED WITH THIS POLICY STATEMENT/STANCE? ***

The Missoula Conservation District will continue to work with Realtors® and the public to make sure they are aware of and understand the Natural Water Bodies and Land Preservation Disclosure and 310 Law. The Missoula Conservation District Executive Director is available to help communicate with MAR and build a coalition of real estate agents who believe that this change is needed.

5. **ARE THERE ANY EXISTING MACD POLICIES THAT THIS WOULD IMPACT OR INTERACT WITH? ***

The Missoula Conservation District is not aware of any existing policies.

6. **HOW WOULD THIS POLICY IMPACT MACD? *** **(budget, staff time, political capitol, partnerships, legislative capacity, etc)**

The Missoula Conservation District believes that working with MAR, the MACD staff would not need much staff time or budget to get this policy change done. The Missoula Conservation

District Executive Director is available to help communicate with MAR and build a coalition of real estate agents who believe that this change is needed.

7. **WOULD THIS POLICY STATEMENT IMPACT THE STATE BUDGET? IF SO, HOW? ***

The Missoula Conservation District Board of Supervisor August meeting on August 14, 2023.

8. **MEETING AND DATE ADOPTED BY SPONSORING ENTITY**

AUTHORIZED SIGNATURE(S) AND TITLE(S) *

Timothy J. Hall, Board Chairman 8/14/2023