



Resolution 25-07

Resolution type: Legislative Directive

Process to Develop Legislation to Reform the Civil Penalty Provisions of the *Natural Streambed and Land Preservation Act of 1975*

Submitted by: Blaine County Conservation District

BACKGROUND DESCRIBING ISSUE *

Since the adoption of the Natural Streambed and Land Preservation Act of 1975, Montana's Conservation Districts have actively pursued voluntary, cooperative compliance with the provisions of the act in order to prevent degradation of Montana's streams and waterways, or to mitigate and correct man-made degradation as quickly and as reasonably possible. The civil penalty section of that act has rarely been used, but has existed as an incentive to otherwise recalcitrant resource users/managers to resolve issues in a voluntary and cooperative manner.

However, over the 50 years since adoption of the Act, the costs of compliance to prevent degradation in the first place, or to correct and mitigate degradation in the second place have grown greatly and that has greatly diminished the effectiveness of the civil penalties to foster voluntary/cooperative compliance. Also, the changing nature of resource ownership/management, in some instances, has fostered reports that some resource owners/managers of means have found it in their economic interests to pay the current fines, and leave the potential or real degradation of a stream or waterway unaddressed.

While the existing penalty section of the Act goes on to state in 73-7-123 subsection (3)(b) "If the amount of liability for restoration exceeds \$15,000, then the action must be brought

in district court.” There are few, if any, conservation districts in the state who could afford attorney fees and court costs for a protracted case in district court.

SPONSOR(S) ACTIONS TO DATE *

To date, no formal action or response has been taken by the Blaine County Conservation District to address the situation, except the drafting of this resolution. However, last session one conservation district had legislation (SB 472) that, as introduced, would have raised the maximum civil penalties in order to preserve the compliance incentive that civil penalties foster. Unfortunately, that conservation district had not run its proposal through the resolution process of MACD so that our association could operate with clear direction from the latest MACD convention. Because conservation districts are assigned, by law, the administration of the Natural Streambed and Land Preservation Act, the MACD Legislative Ad Hoc Committee (LAHC) knew that legislators would look to us for advice on this bill since it affects every conservation district in the state. On that basis, the LAHC agreed to support SB 472, but only if it was not otherwise amended to cover other topics.

Lo and behold, at the behest of an organized political organization representing a single sector of the Montana economy, the sponsor of the bill took it upon himself to amend SB 472 in such a way that that sector would be, effectively, exempt from compliance with the Natural Streambed and Land Preservation Act. Confusion reigned supreme. When, finally, SB 472 passed by a “supposedly” veto proof margin, it was unclear why legislators voted as they did. Some who voted yes may have favored the increased penalties, but not the exemption. Others may have favored the exemption more than they disliked the increased maximum penalties. The reverse judgement on the bill may have been made by those legislators who voted no.

Sensing this uncertainty among legislators, the Governor vetoed the bill and the poll to override his veto failed.

LANGUAGE TO BE INCLUDED IN LEGISLATION DRAFTED BY MACD *

Whereas, the compliance incentive of the current maximum civil penalties remains much diminished due to inflation and the willful disregard of a small number of land and resource managers,

Be it resolved, that the MACD Board of Directors assign to the Legislative Ad Hoc Committee, in cooperation with the MACD Water Policy Committee, the task of developing a consensus legislative measure reforming and modernizing the civil penalties section of the Montana Natural Streambed and Land Preservation Act in time for that consensus measure to be considered, evaluated and, hopefully adopted through the 2026 MACD Resolutions Process,

And be it further resolved, the LAHC provide sufficient opportunity for all conservation districts who wish to, to provide their observations and advice during the process,

And be it further resolved, that this legislative measure be drafted so tightly that there is no room for extraneous amendments that cause it to violate Montana Constitution Article V, Part V, Section 11 Bills, subsections (1) and (3). See citations below:

- (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.
- (3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

HOW WILL YOUR DISTRICT CONTINUE TO SUPPORT, BE INVOLVED WITH, AND TRACK THIS RESOLUTION BEFORE AND DURING THE UPCOMING LEGISLATIVE SESSION? *

The Blaine County Conservation District is fortunate to have one of our Supervisors serving currently as a member of the LAHC. He pledges to stay involved so long as MACD wishes to keep him around as a member of the LAHC.

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

No.

HOW WOULD THIS LEGISLATIVE DIRECTIVE IMPACT MACD? *

This policy would create greater certainty for MACD's lobbying efforts during the 2027 session of the Montana Legislative Assembly on this particular topic.

WOULD THIS LEGISLATIVE DIRECTIVE IMPACT THE STATE OF MONTANA BUDGET? IF SO, HOW? *

Minimally. It should take no more than a few hours of their precious time for the DNRC administrative and legal staff to provide a review of the draft legislation and to provide data available from reports filed by Conservation Districts with the Department.

MEETING AND DATE ADOPTED BY SPONSORING ENTITY

Blaine County Conservation District Board of Supervisors Public Meeting held August 19, 2025

AUTHORIZED SIGNATURE(S) AND TITLE(S) *

Bruce Anderson, Chairman