United States Environmental Protection Agency
Office of Water (4203)
EPA 833-F-00-003
January 2000 (revised June 2012)
Fact Sheet 2.1

EPA

Stormwater Phase II Final Rule

Who's Covered? Designation and Waivers of Regulated Small MS4s

Stormwater Phase II Final Rule Fact Sheet Series

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Who Is Affected by the Phase II Small MS4 Program?

The Stormwater Phase II Final Rule applies to operators of *regulated small* municipal separate storm sewer systems (MS4s), which are designated based on the criteria discussed in this fact sheet. In this fact sheet, the definition of an MS4 and the distinction between small, medium, and large MS4s is reviewed. Conditions under which a small MS4 may be designated as a *regulated* small MS4, as well as the conditions for a waiver from the Phase II program requirements, are outlined. This fact sheet also attempts to clarify possible implementation issues related to determining one's status as an operator of a regulated small MS4.

What Is a Municipal Separate Storm Sewer System (MS4)?

What constitutes an MS4 is often misinterpreted and misunderstood. The term MS4 does not solely refer to municipally-owned storm sewer systems, but rather is a term of art with a much broader application that can include, in addition to local jurisdictions, State departments of transportation, universities, local sewer districts, hospitals, military bases, and prisons. An MS4 also is not always just a system of underground pipes – it can include roads with drainage systems, gutters, and ditches. The regulatory definition of an MS4 is provided below.

According to 40 CFR 122.26(b)(8), "***municipal separate storm sewer*** means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States.

(ii) Designed or used for collecting or conveying stormwater;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2."

What Is a Small, Medium, or Large MS4?

- EPA's NPDES (National Pollutant Discharge Elimination System) stormwater permitting program labels MS4s as either "small," "medium," or "large" for the purposes of regulation.
- A ***small* MS4** is any MS4 that is not already covered by the Phase I stormwater program. Small MS4s include Federally-owned systems, such as military bases.
- The Phase I stormwater program covers *medium* and *large* MS4s. Phase I MS4s were automatically designated nationwide as ***medium* MS4s** if they were located in an incorporated place or county with a population between 100,000 - 249,999 or as ***large* MS4s** if located in an incorporated place or county with a population of 250,000 or greater. Many MS4s in areas below 100,000 in population, however, have been individually brought into the Phase I program by NPDES permitting authorities. Such already regulated MS4s do not have to develop a Phase II program.

Are All Small MS4s Covered by the Phase II Final Rule?

No. The universe of small MS4s is quite large since it includes every MS4 except for the approximately 900 medium and large MS4s already regulated under the Phase I stormwater program. Only a select sub-set of small MS4s, referred to as ***regulated* small MS4s**, is covered by the Phase II Final Rule, either through automatic nationwide designation or designation on a case-by-case basis by the NPDES permitting authority.

How Is A Small MS4 Designated as a Regulated Small MS4?

A small MS4 can be designated by the permitting authority as a *regulated* small MS4 in one of three ways:

❶ Automatic Nationwide Designation

The Phase II Final Rule requires nationwide coverage of all operators of small MS4s that are located within the boundaries of a Bureau of the Census-defined "urbanized area" (UA) based on the latest decennial Census. Once a small MS4 is designated into the program based on the UA boundaries, it cannot be removed from the program on that basis that a subsequent decennial UA calculation shows that the small MS4 is no longer within the UA boundaries. However, the designated small MS4 remains eligible for a waiver if it meets the criteria.

- ***Urbanized Areas***

> An ***urbanized area* (UA)** is a densely settled core of census tracts and/or census blocks that have population of at least 50,000, along with adjacent territory containing non-residential urban land uses as well as territory with low population density included to link outlying densely settled territory with the densely settled core. It is a calculation used by the Bureau of the Census to determine the geographic boundaries of the most heavily developed and dense urban areas.

More information about urbanized areas maps is available at: http://www.epa.gov/npdes/stormwater/urbanmaps

Additionally, information about urbanized areas is available directly from the U.S. Bureau of the Census at: http://www.census.gov/geo/www/ua/2010urbanruralclass.html

❷ Potential Designation by the NPDES Permitting Authority – Required Evaluation

An operator of small MS4 located outside of a UA have been designated as a regulated small MS4 if the NPDES permitting authority determined that its discharges cause, or have the potential to cause, an adverse impact on water quality. The Phase II Final Rule required the NPDES permitting authority to develop a set of designation criteria and apply them, *at a minimum*, to all small MS4s located outside of a UA serving a jurisdiction with a population of at least 10,000 and a population density of at least 1,000 people/square mile.

- ***Designation Criteria***

EPA recommended that the NPDES permitting authority use a balanced consideration of the following designation criteria on a watershed or other local basis:

- ✓ Discharge to sensitive waters;
- ✓ High population density;
- ✓ High growth or growth potential;
- ✓ Contiguity to a UA;
- ✓ Significant contributor of pollutants to waters of the United States; and
- ✓ Ineffective protection of water quality concerns by other programs.

❸ Potential Designation by the NPDES Permitting Authority – Physically Interconnected

Under the final rule, the NPDES permitting authority was required to designate any small MS4 located outside of a UA that contributes substantially to the pollutant loadings of a *physically interconnected* MS4 regulated by the NPDES stormwater program. The final rule did not set a deadline for designation of small MS4s meeting this criterion.

> ***Physically interconnected*** means that one MS4 is connected to a second MS4 in such a way that it allows for *direct* discharges into the second system.

State and EPA permitting authorities can be contacted to obtain a full list of regulated MS4s, including both the automatically designated MS4s and those that were additionally designated.

Are Waivers from the Phase II Permit/Program Requirements Possible?

Yes, two waiver options are available to operators of automatically designated small MS4s if discharges do not cause, or have the potential to cause, water quality impairment.

The first applies where:

(1) the jurisdiction served by the system is less than 1,000 people within the urbanized area;

(2) the system is not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4; and

(3) if the small MS4 discharges any pollutants identified as a cause of impairment of any water body to which it discharges, stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern.

> ***TMDLs*** are water quality assessments that determine the source or sources of pollutants of concern for a particular waterbody, consider the maximum amount of pollutants the waterbody can assimilate, and then allocate to each source a set level of pollutants that it is allowed to discharge (i.e., a "wasteload allocation"). Small MS4s that are not given a wasteload allocation would meet the third criterion above.

The second applies where:

(1) the jurisdiction served by the system is less than 10,000 people;

(2) an evaluation of all waters of the U.S. that receive a discharge from the system shows that stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or an equivalent analysis; and

(3) it is determined that future discharges from the small MS4 do not have the potential to result in exceedances of water quality standards.

The NPDES permitting authority is required to periodically review any waivers granted to MS4 operators to determine whether any information required for granting the waiver has changed. Minimally, such a review needs to be conducted once every five years.

Can More than One MS4 in the Same Political Jurisdiction Be Automatically Designated?

Yes. Since the final rule provides automatic coverage of all small MS4s within a UA, the result would likely be coverage of several governments and agencies with multiple, perhaps overlapping, jurisdictions. For example, a city that is located within a UA and operates its own small MS4 could be designated alongside the State's department of transportation (DOT) and the county's DOT if the State and county operate roads that are within the borders of the city. All three entities would be responsible for developing a stormwater management program for the portion of their respective MS4s within the city limits. In such a case, the permittees are strongly encouraged to work together to form a unified stormwater management program.

Who Is Responsible if the Small MS4 Operator Lacks the Necessary Legal Authority?

Some regulated small MS4s may lack the necessary legal authority to implement one or more of the required minimum control measures that comprise the Phase II stormwater management program. For example, a local government that is a small MS4 operator may be in a State that does not have an enabling statute that allows local regulatory control of construction site runoff into the sewer system. Another example is a State DOT that may not have the legal authority to require and enforce controls on illicit discharges into its system. In these situations the small MS4 is encouraged to work with the neighboring regulated small MS4s. As co-permittees, they could form a shared stormwater management program in which each permittee is responsible for activities that are within their individual legal authorities and abilities.

For Additional Information

Contacts

- U.S. EPA Office of Wastewater Management
  Phone: 202-564-9545
  http://www.epa.gov/npdes/stormwater

- Your NPDES Permitting Authority. Most States and Territories are authorized to administer the NPDES Program, except the following, for which EPA is the permitting authority:

District of Columbia	Guam
Idaho	Johnston Atoll
Massachusetts	Midway and Wake Islands
New Hampshire	Northern Mariana Islands
New Mexico	Trust Territories
Puerto Rico	American Samoa

- A list of names and telephone numbers for each EPA Region and State is located at
  http://www.epa.gov/npdes/stormwater
  (click on "Contacts")

Reference Documents

- EPA's Stormwater Web Site
  http://www.epa.gov/npdes/stormwater
  - Stormwater Phase II Final Rule Fact Sheet Series
  - Stormwater Phase II Final Rule (64 *FR* 68722)
  - National Menu of Best Management Practices for Stormwater Phase II
  - Measurable Goals Guidance for Phase II Small MS4s
  - Stormwater Case Studies

- Census Urbanized Area Information
  http://www.epa.gov/npdes/stormwater/urbanmaps
  - General Information:
    http://www.census.gov/geo/www/ua/uaucbndy.html

February 2, 2017

Senate State Administration

Room 303

3:00 pm

HJ 3-Interim study of water right change process.

Summary: This hearing had many proponents and no proponents. This bill will help Montana's farming and agriculture industries and benefit the rest of Montanans. Multiple interim studies are needed to adequately understand water use and water changes.

Bill Sponsor Introduction: Zach Brown HD 63- HJ 3 is a continuation of what the water policy interim committee has been doing over previous interims. Many questions we receive are what's the future of the water rights administration and how are we going to deal with that process with adjudication? Hopefully these questions can be answered with further research and studies. We want to protect our senior water right holders.

Proponents:

Abigail St. Lawrence- Montana Association of Realtors- Many times our clients have to apply for a change form and fill out the change application form. This can put projects on hold and cause liability issues to land owners and ranchers. We look forward to participating in the study during the interim.

Krista Lee Evans- Senior Water Rights Coalitions-We support HJ 3 and protecting water users and changing the use of water in our state. This resolution is important for the water court decrees and irrigation rights. If an irrigator wants to change their irrigation to a different use they have to go through a huge process.

Jay Bodner- MSGA - There is potential to make this bill more efficient and have a smooth process. We stand in support.

Mike Murphey- Montana Water Research Association- We too stand in support for HJ 3 for reasons already heard today. We support the concept and hope to put forward a program that works.

Chelcie Cargill- Montana Farm Bureau Association- We stand in support of this bill. We need to look at senior water holders and their uses and how they are planning on changing. We need to help them through the process. I urge a do pass.

Levi Ostberg- Montana Farmers Union- Water is so important to the agriculture and farming industry. Montana relies on those industries. We urge a do pass.

Opponents: None

Informational Witnesses:

Millie Heffner- Water Rights Research Chief for DNRC

Committee Questions:

Barrett- What prompted you to bring forward this bill what kind of problems are we facing?

Brown- The bill goes from the Main Street Montana Program. The other issue is in line 15-17 of my bill. The issues water rights holders face. There's a difficult change process that water right holders and senior water holders face. This can dramatically affect agriculture by having droughts and floods.

Pomnichowski-There are statements about the look back, but what is the scope of this proposed study?

Huffnor- The consumptive use and use of water is what we are looking at.

Pomnichowski- Why the time gap?

Evans-Because of the new democracy and what was protected then and what is protected now. What we have recorded came after all of that.

Chair- what does the report cost to put together? Do we need additional resources to put together a report like that?

Evans- We don't need to go as in depth as the report. But we need to look at their research process and how the report is done to get an idea of what we need to be focusing on.

Bill Sponsor Closing Statement:

Thank you all for the great questions. When it comes to the change process, the department is implementing what the government says the parameters are. We need a thorough investigation so farmers are not negatively impacted.

Lori Stratton

From: Larry Bonderud
Sent: Friday, February 03, 2017 4:24 PM
To: Lori Stratton
Subject: Fwd: Week 5 update

Packets

Sent from my iPhone

Mayor Lar

Begin forwarded message:

> **From:** Melissa Lewis <melissa@mlewisassoc.com>
> **Date:** February 3, 2017 at 4:16:03 PM MST
> **To:** Larry Bonderud <larry@shelbymt.com>
> **Subject: Week 5 update**
>
> Hi Mayor,
>
> This week hearings were held on HB 9, the Cultural and Aesthetic Grant program and also HB 159, Designate Shelby Veteran's Memorial. Below is a summary of bill action this week.
>
> As far as next week, expect major changes to the Montana Infrastructure Coalition's fuel tax bill. It should finally be introduced next week. Executive action could occur next Tuesday or Thursday on HB 301, clarify that local governments can issue bonds for street maintenance projects. There will also be a large hearing on HB 365, Revise underground utility laws.
>
> **Advancing:**
> SB 42, Revise Major Facility Siting Act. Passed Senate Natural Resources 12-0.
> SB 93, Provide notification at certain dwellings for oil and gas operations. Passed Senate Energy & Telecom 8-5 on party line vote.
> HB 3, Revising expenditures and providing supplemental appropriations. Passed Finance & Claims 14-0.
> SB 98, Establish property ownership fairness act. Hearing is tomorrow at 8am in Senate Judiciary. This bill has a $600M fiscal note and will likely be killed in committee.
> LC 2204, Provide civil liability for unmanned aerial vehicle trespass. Hearing was delayed so oil and gas industry can work with bill sponsor on amendments.
> SB 37, Colstrip Decommissioning and Remediation Act. Bill is being amended by MEIC and PSE.
> SB140, Allow low-interest coal tax trust fund loans to certain local governments. Passed out of State Administration 8-0.
>
> **Tabled/Dead:**
> HB 203, Provide supplemental funding to MDT. Tabled in committee.
> HB 250, Require county and school district approval for adoption of TIF provision. Tabled in committee.
> HB 188, Enact a Small Business Growth Encouragement Act. Tabled in committee.
> HB 242, Constitutional amendment to establish natural resources trust fund. Tabled in committee.
> SJ4, Interim study of crossroads correctional center
>
> **Pending Governor Action:**

SB 79, Add member to Board of Optometry. Transmitted to Governor on 2/2.

Pending Executive Action:

HB 300, Exempt townhouses from subdivision sanitation regulations.
HB 159, Designate Shelby Veterans' Memorial.
HB 9, Cultural and Aesthetic Grants.
HB 5, Long-Range Building Appropriations.
SB 88, Create Montana Trust Fund.
HB 211, Require sage grouse population report.
HB 187, Establish an angel investor/venture capital tax credit.
HB 228, Provide funding for sage grouse stewardship.
HB 14, Bonding Bill. Hearing is tomorrow at 8:30am in Joint Appropriations on Long-Range Planning.

Next Week:

Monday
3:00pm HJ 3, Interim study of water right change process. Out of committee. Zach Brown, Room 303
Tuesday
8am HB 30, Remove voted levies approved after creation of TIF from tax increment provision, Jeff Essmann, Room 152
1:30pm SB 162, Establish regional infrastructure. Keith Regier, Room 303
3:00pm HB 267, Revise laws related to bicycles on roadways. Frank Garner, Rm 405
Wednesday
8am HB 359, Limit tax increment financing revenue to local mills. Tom Burnett, Room 152
3pm HB 365, Revise underground utility laws. Ray Shaw, Room 472

Your full bill tracking list can be found here:
https://reports.statehill.com/cErHPcmoSEmvzmAJZrLSweiLKcwpmqZkUpcaRmtVkkZpwNGRCn

Lori Stratton

From:	Larry Bonderud
Sent:	Sunday, February 05, 2017 8:38 PM
To:	Lori Stratton
Subject:	Fwd: Shelby Veterans Memorial
Attachments:	Veteran's Memorial Flag article 2005.pdf; ATT00001.htm

Packets.

Sent from my iPhone

Mayor Lar

Begin forwarded message:

> **From:** "Melissa Lewis" <melissa@mlewisassoc.com>
> **To:** "Larry Bonderud" <larry@shelbymt.com>
> **Subject: Fwd: Shelby Veterans Memorial**
>
> FYI
>
> Begin forwarded message:
>
> > **From:** "Melissa Lewis" <melissa@mlewisassoc.com>
> > **To:** "ljones@mtbus.net" <ljones@mtbus.net>
> > **Subject: Shelby Veterans Memorial**
> >
> > Hi Llew,
> >
> > Per your request, here is a little write up of the Shelby Veterans Memorial and a news article from 2005. I also added a few points that might be helpful for you on the floor.
> >
> > Zero government dollars have been spent on the memorial. The entire project was funded through donations.
> >
> > Adding the memorial to the state map might generate a little extra tourism for Shelby. It is one of three attractions the city has intentionally developed within walking distance of each other. Champion's Park and the Marias Museum of History and Art are the other two attractions that visitors enjoy, in addition to checking out Shelby's downtown business district while in town.
> >
> > It is my understanding that the memorial would be added before the next map is printed (no special map reprinting would occur). Also, no additional maintenance or capital costs would be required of the city if the memorial is added to the state map.

Thank you for your help!
Melissa

Six Shelby – area Vietnam veterans spearheaded the Veteran's Memorial build in Shelby. Through generous gifts of local individuals, businesses and organizations of funding, time and labor, the flag sits proudly at the intersection of US Highway 2 and Interstate 15. This section is known as the 163rd Infantry Regiment Heritage Highway, the First Special Forces Memorial Highway between Helena, Montana and Lethbridge, Alberta as a tribute to all who served. The site includes the massive 30' by 50' American flag and 6 smaller flags representing the branches of armed services and tribute to POWs.

The Veterans Memorial Park below the flag site features a steel silhouette replica of the infamous raising of the flag on Iwo Jima. The 20' tall by 12' wide "blue collar bronze" was created locally by hand. A 12' pentagon stands at the heart of the memorial with a cast iron eagle perched atop. The stand features metal representations of the five armed services. Flanking the Iwo Jima silhouette are two display stands with bricks recognizing veterans and supporters of the memorial project.

The Veteran's Memorial Flag flies proudly over Shelby honoring all those who have served our country.

Melissa

Melissa Lewis

800 E. 6th Avenue

Helena, MT 59601

Cell: 406-465-8045

Office: 406-422-0988

www.mlewisassoc.com

Veterans Memorial Flag proudly soars west of Shelby.

By James V. Smith Jr. for the Promoter | Posted: Thursday, July 7, 2005 12:00 am

A group of six Vietnam veterans-with the help of hundreds of generous and patriotic Montanans-ran the 30- by 50-ft. Veterans Memorial Flag project up a 100-ft. flagpole west of Shelby Friday in time for people to salute it over the Fourth of July holiday.

For the veterans the flag was a statement that fulfilled the vision of project chairman Bob Longcake of Shelby, who said 10 months ago at the group's first meeting, "The Vietnam vet typically hangs back and keeps quiet, because that's what he was expected to do during Vietnam. It's time for us to step up and speak out for our guys being sent to Iraq."

The flag monument was publicly announced in ceremonies on Veterans Day, Nov. 11, just weeks before the deployment of a battalion of Montana's 163rd Infantry Regiment to Iraq. The flag unfurled by more than a hundred veterans at that emotional ceremony will eventually be retired and donated to the 163rd Infantry as a memento after the unit's return from Iraq.

Immediately after the November ceremonies, donations began pouring in to fund the project, including offers of labor, land, equipment, pipe, concrete and other materials from all across Montana. Several large donations came from out of state. Corporations, businesses and individuals have agreed to buy a flag a year to sustain the project in coming years. Organizers of the not-for-profit project estimate that $100,000 worth of time, effort and materials went into raising the first flag.

So it was only fitting that when a stiff breeze caught the flag, billowing it like a mainsail and tossing Vietnam vets around the hilltop, the men called for help once again, and bystanders closed in to keep the project from flying out of control in its 11th hour.

The veterans were determined all along to fly the colors over the Fourth, but a combination of factors had threatened the timetable for weeks, according to Longcake. Heavy rains delayed excavation and concrete pouring. That delay was compounded by the need to cure the reinforced concrete block and steel base set 12 feet in the ground. The first electric winch sent was not the one ordered and would not spool enough cable to fully raise the flag. While awaiting a new winch, the group learned that the only crane in the area capable of lifting the 100-ft. flagpole into position was stuck in the mud on another job site.

Thursday, though, things began to click. Heavy equipment donated to the project by Alme Construction of Cut Bank arrived on site within hours of the delivery of the flagpole from

Sunburst by Dick Irvin Inc. The DII crane labored up the hill later in the day and raised the pole without incident on the only wind-free day of the week. The 8,000 pole, 18 inches at the base with walls more than half an inch thick, was bolted into position on its base within five minutes, according to project engineer John Alstad of Sunburst, a feat that would not have been possible in Friday's 20 mph winds, he said.

Friday, the replacement winch, sent by express air, did not arrive until 11 a.m. But by 1 p.m., with the ad hoc crew holding the whipping flag, the final cable hookups were made one at a time.

Until finally, with KSEN radio playing the rousing "Under the Double Eagle," the patriotic music blaring from radio speakers from a work truck on the hill, the order was given to release the flag. The wind and the winch did the rest.

Rippling and snapping in the west wind, the flag shot up the pole without incident. From miles away, the group learned later, men and women crowded to the office windows to watch the flag flutter in a bright blue sky dotted with cotton-ball clouds. Shelby Mayor Larry Bonderud was the first to point out that the flag was visible on a direct line from the front of City Hall and the Toole County Courthouse, an unintended consequence. In fact, the flag, lighted by two 1,000 watt light towers can be glimpsed spots from all over the town and from all the major approaches to Shelby, winking in and out of view.

Atop the hill, though, the crew, veterans and drafted works alike applauded as the flag soared upward on its maiden 100-ft flight.

Committee member Larry Nelson said, "This is going to be my best Fourth ever."

And Alstad said, "I can't remember the last time I felt so proud to be a veteran."

With the Veterans Memorial Flag in place and flying, the most visible part of Phase I of the project is completed, but project chairman Bob Longcake emphasized that the work-and the need for funds-is far from over.

Before the group can meet its obligations under their leasing agreement, the hill site must be fenced, gated and locked for liability purposes and to prevent vandalism.

In Phase II of the project, flagpoles for the flags of each of the major services are to go up. A parking area will be improved with park benches installed. Landscaping will be done with native shrubs and grasses, and the road will be graveled to allow access for lowering the flag before forecast storms hit. Area law enforcement units have volunteered to perform those duties.

A Phase III has been added to the vision for the completed monument. A series of metal sculptures representing an infantry squad climbing the west slope of the monument hill will be placed. Also, Friday's experience of dealing with the flag in a brisk wind has shown the group

they will have to design and install a mechanical device that will allow two men to handle the flag in a breeze.

On a lighter note, comments from Shelby citizens about the flag seeming smaller than it ought to be are a concern to the flag committee, too. The group points out that the dark power pole on the hill is about the height of a tall man, which should lend scale to the viewing experience.

Other viewing notes: when the largest, 30- by 50-ft. flag is flying straight out, it will appear to occupy most of the top third of the pole; when it is hanging straight in the rare windless moment, it will drape slightly more than 58 feet, more than half the pole's height.

Donations may be made to Veterans Memorial Flag Fund, First State Bank, Shelby, MT 59474.

Lori Stratton

From:	Larry Bonderud
Sent:	Tuesday, February 07, 2017 3:19 PM
To:	Rikki James
Cc:	Deb Clark; Lyle Kimmet; Gary McDermott; Brian Lee; Bill Moritz; chip.miller4@gmail.com; Jade Goroski; bhunt@3rivers.net; Lori Stratton
Subject:	Re: Cities with Tobacco Free Parks

Thank you.

Sent from my iPhone

Mayor Lar

On Feb 7, 2017, at 2:59 PM, Rikki James <rjames@toolecountymt.gov> wrote:

<image001.gif>
Hello,

Thank you for giving reACT an opportunity to propose an opportunity for the City of Shelby to make a positive change for the health of our children and our community!

Here are a few cities and one county who have TF Parks. I also included the years that their policies were adopted.

2010, Carbon County - all Red Lodge city parks tobacco free.
2013, Glacier County -Cut Bank City parks tobacco free.
2015, Lewis and Clark County - all Helena City Parks tobacco free
2017, Mineral County - has public lands (parks, fair grounds- tobacco free)

Never doubt that a small group of thoughtful, committed people can change the world. Indeed, it is the only thing that ever has. ~Margaret Mead

You can help keep Montana indoor public places and workplaces smokefree. If you observe a violation, you can file a complaint by completing an online form at tobaccofree.mt.gov or calling 1-866-787-5247.

Rikki James
Program Manager
Toole County Health Department
402 1st ST South

Shelby, MT 59474
(406) 424-5169
(406) 424-2425 fax
rjames@toolecountymt.gov ****New email starting 2017**

notobacco@3rivers.net (old email please update)

<image004.jpg>

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TIF BILLS – 2017 SESSION
As of 2/7/17

<u>SB 27 (Thomas)</u>. HEARING House Taxation Rm 152 8:00 a.m. 2/9
As amended, requires the local government's annual financial report under 2-7-503 to include a report of the financial activities related to TIF; requires public meeting and opportunity for comment on all matters before the urban renewal agency board; requires the TIF annual report under 7-15-4237 to "describe the public purpose of expenditures of tax increment and how the expenditures meet the goals of the urban renewal plan or comprehensive development plan (TEDD).

Sen. Thomas agreed to MLCT's amendments. Leg staff has drafted the amendment. Sen Hoven had conflicting amendments, EA scheduled for Thurs 1/26. On 1/26 Hoven withdrew his amendments and Thomas' amendments were approved. Bill as amended passed out of committee and is scheduled for 2nd reading. Passed 2nd reading 1/31. Passed 3rd reading 2/1. Transmitted to House 2/1.

<u>HB 30 (Essman)</u> – HEARING 2/7 House Taxation Rm 152 8 a.m.
This bills was also approved by RTIC (LC 414). This bill removes levies adopted after the TIF is created from the TIF calculation. The bill now has an immediate effective date. Question whether existing TIFs could add new levies to the calculation (i.e., does it just apply to TIFs created after effective date of bill). Could DOR be an informational witness as to how this will not affect schools the way they believe it will?

<u>HB 76 (Hertz)</u> – Returned to House 2/6
The bill is unchanged from what was proposed by RTIC (LC 412). It adds language to existing 7-15-4291 that restricts the agreement terms for remittance of unused portions of tax increments, requiring it to be with all taxing jurisdictions included in the calculation and proportional to each jurisdiction's share of total mills levied. *MLCT Supported as introduced; will review amendments for any changes to position.*

<u>HB 134 (Essman)</u> – HEARING 2/8 House Education Rm 137 3 p.m.
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Require county and school district approval for adoption of TIF provision. Potential amendment would be to have city approve TIF in a TEDD district?

Lori Stratton

From: Larry Bonderud
Sent: Thursday, February 09, 2017 7:13 PM
To: Lori Stratton
Subject: Fwd: Week 6 MT Update
Attachments: TIF Bills - 2017 Session.docx; ATT00001.htm

Packets.

Sent from my iPhone

Mayor Lar

Begin forwarded message:

> **From:** Melissa Lewis <melissa@mlewisassoc.com>
> **Date:** February 9, 2017 at 7:11:16 PM MST
> **To:** Larry Bonderud <larry@shelbymt.com>
> **Subject: Week 6 MT Update**
>
> Hi Mayor,
>
> It is week 6 of 16 and the pace has picked up at the Montana Capitol!
>
> This week there were hearings on seven (7) different Tax Increment Finance (TIF) bills. To date, there are 15 TIF bills being considered by the 2017 legislature. In a nutshell, certain legislators seek to limit the use of TIF districts and increase transparency. In opposition, cities and towns say TIF is one of the best infrastructure financing tools available in Montana. See attached summary of TIF bills from the Montana League of Cities and Towns. Per your request, I testified in opposition to HB 359, Tom Burnett's bill to limit tax increment financing revenue to local mills. The bill is likely to get tabled in the House Taxation Committee.
>
> Another hot topic this week was HB 365 to revise underground utility laws. This bill seeks to bring Montana into compliance with Federal One Call (call before you dig) laws. Over 20 diverse stakeholders worked to draft the bill and spoke in favor of the bill yesterday during the House Energy Committee hearing. Denbury Resources was the lone opponent. The company feels the bill is an overreaction to federal overreach and seeks to exempt non-jurisdictional facilities (flow lines and gathering lines) from the bill.
>
> The Senate Finance and Claims Committee heard a bill by Senator Keith Regier (R-Kalispell) to establish a regional infrastructure grant program. The bill fell flat in committee, with most committee members pointing out issues with the bill. It did not receive much support.
>
> Let me know if you'd like hearing notes on any of the above topics.
>
> The Montana Infrastructure Committee had intended to introduce the Fuel Tax Bill this week, although the bill has not been introduced yet. I hear the hearing has been scheduled for Wednesday, February 15.

Also this week, all the key appropriations bills (HB 2 General Appropriations Act; HB 3, Reverse Supplemental; HB 5, Long-Range Building; HB 6, Renewable Resource Grants; HB 7 Reclamation and Development Grants; HB 8, Renewable Resource Bonds and Loans; HB 9, Cultural and Aesthetic Grants; HB 11, TSEP and HB 14 Bonding Program) were referred to the House Appropriations Committee. $3,500 remains in HB 9 for Shelby's Champion's Park.

Also this week, I shared talking points with Senator Llew Jones for HB 159, Designate Shelby Veterans' Memorial. The bill will likely be on the Senate Floor next week.

Key Hearings Next Week:

Monday, February 13
3pm HB 384, Revise oil and gas lease provisions
This bill is sure to face steep opposition from the oil and gas industry.

John's confirmation hearing is also scheduled for 3pm Monday.

Tuesday, February 14
9am SB 170, Provide civil liability for unmanned aerial vehicle trespass
This is a bill that intends to limit the use of drones over private property. There are a number of concerns with this bill by pipeline operators and others who use drones for commercial purposes, such as siting a pipeline or survey work.

Wednesday, February 15
Fuel Tax Hearing? It hasn't been scheduled yet.

More hearings will be posted before next week. Hearings are required to be posted 48 hours in advance.

Shelby's bill tracking list can be found here:
https://reports.statehill.com/cErHPcmoSEmvzmAJZrLSweiLKcwpmqZkUpcaRmtVkkZpwNGRCn

Let me know if you have any questions!

Melissa

Melissa Lewis
800 E. 6th Avenue
Helena, MT 59601
Cell: 406-465-8045
Office: 406-422-0988
www.mlewisassoc.com

TIF BILLS – 2017 SESSION
As of 2/7/17

<u>SB 27 (Thomas)</u>. HEARING House Taxation Rm 152 8:00 a.m. 2/9
As amended, requires the local government's annual financial report under 2-7-503 to include a report of the financial activities related to TIF; requires public meeting and opportunity for comment on all matters before the urban renewal agency board; requires the TIF annual report under 7-15-4237 to "describe the public purpose of expenditures of tax increment and how the expenditures meet the goals of the urban renewal plan or comprehensive development plan (TEDD).

Sen. Thomas agreed to MLCT's amendments. Leg staff has drafted the amendment. Sen Hoven had conflicting amendments, EA scheduled for Thurs 1/26. On 1/26 Hoven withdrew his amendments and Thomas' amendments were approved. Bill as amended passed out of committee and is scheduled for 2nd reading. Passed 2nd reading 1/31. Passed 3rd reading 2/1. Transmitted to House 2/1.

<u>HB 30 (Essman)</u> – HEARING 2/7 House Taxation Rm 152 8 a.m.
This bills was also approved by RTIC (LC 414). This bill removes levies adopted after the TIF is created from the TIF calculation. The bill now has an immediate effective date. Question whether existing TIFs could add new levies to the calculation (i.e., does it just apply to TIFs created after effective date of bill). Could DOR be an informational witness as to how this will not affect schools the way they believe it will?

<u>HB 76 (Hertz)</u> – Returned to House 2/6
The bill is unchanged from what was proposed by RTIC (LC 412). It adds language to existing 7-15-4291 that restricts the agreement terms for remittance of unused portions of tax increments, requiring it to be with all taxing jurisdictions included in the calculation and proportional to each jurisdiction's share of total mills levied. *MLCT Supported as introduced; will review amendments for any changes to position.*

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Montana Department of Transportation
200 Smelter Avenue
PO Box 1359
Great Falls, MT 59403-1359

Michael T. Tooley, Director
Steve Bullock, Governor

zero deaths | zero serious injuries on Montana roadways

February 10, 2017

Ms. Lorette Carter
City of Shelby
112 1st St. South
Shelby, MT 59474

Subject: City of Shelby Historical Markers

Dear Ms. Carter:

Thank you for your inquiry regarding placement of "Champions Park" historical markers on MDT right-of-way.

The referenced subject was discussed at MDT's Sign Committee meeting held on February 9, 2017. Unfortunately, it was determined by the Committee that signs of this nature are not posted on MDT right-of-way unless they are identified on the National Register of Historic Places (Montana State Historic Preservation Office). Moreover, the MDT sign book does not reference cultural interest signs as identified in the 2009 edition of the Manual on Uniform Traffic Control Devices (reference sign RS-142).

The City of Shelby may elect to place signs on City right-of-way to assist in the navigation to Champions Park. If you have further questions, you may contact me at 406-455-8327 or curban@mt.gov.

Kindest Regards,

Carlton C. Urban, PE, PTOE
District Traffic Engineer
406-455-8327

E-copies: Matt Ladenburg, Havre Maintenance Chief
Steve Prinzing, District Pre-Construction Engineer
Dave Hand, District Administrator

HOUSE BILL NO. 384

INTRODUCED BY A. KNUDSEN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN OIL OR GAS LESSEE TO PAY ALL COSTS OF PRODUCTION UNLESS PARTIES AGREE TO OTHER TERMS; DEFINING TERMS; AMENDING SECTIONS 77-3-432 AND 77-3-434, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in this part, the following definitions apply:

(1) "Costs of production" means:

(a) all costs incurred for exploration, development, primary or enhanced recovery, and abandonment operations, including but not limited to lease acquisition, drilling and completion, pumping, lifting, storing or transporting oil to storage tanks, or recycling of oil and gas; and

(b) any severance, ad valorem, conservation taxes, or any costs associated with transporting the oil or gas to market, including gathering, compressing, pressurizing, processing, treating, dehydrating, adjustment of British thermal units, or any associated fuel costs.

(2) "Lessee" means the person, including an operator or producer, entitled under an oil and gas lease to drill and operate wells.

(3) "Lessor" means a mineral owner who has executed a lease and who is entitled to the payment of a royalty on production.

(4) "Operator" or "producer" means a person who produces oil and gas.

(5) "Person" means any individual, firm, partnership, limited liability company, or corporation.

(6) "Royalty" means the lessor's share of production under a lease or a royalty owner's share of production apart from a lease.

(7) "Working interest" means the amount of money retained by the lessee after a royalty is paid to the lessor.

NEW SECTION. **Section 2. Costs of production -- exceptions.** The lessee shall pay costs of

production from the working interest unless:

(1) the board of land commissioners finds that sharing the expense of transporting oil to the nearest market pursuant to 77-3-432 better serves the interest of the state; or

(2) a lessor and a lessee agree to other lease terms.

Section 3. Section 77-3-432, MCA, is amended to read:

"77-3-432. Royalty. (1) In each oil and gas lease granted by the state under this part, there must be reserved to the state as consideration for the lease a royalty in all oil and gas produced and saved from all lands covered by the lease and not used for light, fuel, and operation purposes on the leased premises, which must be equivalent to the full market value, as ascertained by the board at the date of the lease, of the estate or interest of the state in the lands and oil and gas deposits disposed of under the lease.

(2) The royalty reservation must be set by the board but may not be less than 12 1/2% on gas and not less than 12 1/2% on oil or casinghead gasoline for each producing well for the calendar month.

(3) ~~The~~ If the board finds that the best interest of the state is not served by the requirement in [section 2], the state may share the expense of transporting the oil to the nearest market on a basis proportional to the state's royalty interest in the oil and at a rate per mile acceptable to the department."

Section 4. Section 77-3-434, MCA, is amended to read:

"77-3-434. Manner of making royalty payment. ~~Such~~ A lease shall provide for the rendering of payment of ~~such~~ a royalty on all oil and gas produced and saved and sold or used off the premises in the following manner and upon the following terms:

(1) the lessee shall pay to the state in cash, for all oil and gas royalty reserved, the posted field price existing on the day ~~such~~ the oil or gas is run into any pipeline or storage tank to the credit of the lessee, plus any bonus actually paid or agreed to be paid to the lessee for ~~such~~ that oil or gas; or

(2) at the option of the state exercised in writing by the board not ~~oftener~~ more often than every 30 days, the lessee shall deliver the state's royalty oil or gas free of ~~cost or deductions~~ costs of production as defined in [section 1] into the pipeline to which the wells of the lessee may be connected or into any storage designated by the state and connected with ~~such~~ the wells."

NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified

as an integral part of Title 82, chapter 10, part 1, and the provisions of Title 82, chapter 10, part 1, apply to [sections 1 and 2].

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. Applicability.** [This act] applies to oil and gas leases entered into on or after [the effective date of this act].

- END -

CITY OF SHELBY
MONTHLY ANIMAL CONTROL REPORT

January (Month) 2017 (Year)

		Dog	Cat
Animal Control Calls and/or Complaints			
City Hall or Public Works	9	6	3
Sheriff's Office	12	10	2
On Patrol	9	5	4

Fees Collected by Animal Control Officer

Destroyed- Animals brought in	0
License	0
Pound	0
Rabies Shot	0

Pound Activity

Animals in pound at end of last month		5	0-5
Impounded	+ 2		
Destroyed - Animals from pound	- 0		
Destroyed - Animals brought in	+ 0		
Released/Returned to owner	- 0		
Total in Pound Month End - - - - - - - - >		7	0-7

Dead Animals

Marias Vet Clinic	0
Other (list where picked up): 1-CAT on Teton Av	1

Vehicle Log

Gallons of Gas	31.4
Mileage - current month reading	88285
Mileage - previous month reading	88025
Total Mileage	260

Warnings and/or Citations

Verbal Warnings	6
Written Warnings	0
Citations Issued	0

Licenses Issued

	Dog	Cat
Month	200	40
Year to Date	200	40

Animal Control Officer

cc: City Superintendent
City Council (deliver to City Hall 1st of month)
Animal Control file

I:\My Documents\Animal Control\1ANI.06.doc