



PO Box 2198, Kalispell, Montana 59903

2/16/2024 via email

Ms. Tatiana Davila
Water Quality Bureau Chief
Montana Department of Environmental Quality
PO Box 200901
Helena, Montana 59620-0901

Dear Ms. Davila,

I am emailing you on an urgent and time sensitive matter. We are alarmed that there is no apparent oversight and corroboration of representations that the LCWSD (Lakeside-County Water and Sewer District) is making to Flathead County regarding the capacity of its wastewater treatment facility (WWTF) both today and in the future.

Specifically, LCWSD is representing to Flathead County that it has the legal ability to accept exponential additional, new volumes of wastewater beyond its DEQ authorized treatment and disposal metrics.¹ Especially concerning is the representation that the District has the technical and legal authority to accept and dispose of gross future septic collections from across Flathead County, despite the District not possessing existing treatment or disposal means.

These representations, or misrepresentations, of capacity and commitment by LCWSD - with apparently no DEQ (Montana Department of Environmental Quality) permitting or authorizations in-hand, and without apparent review or knowledge of DEQ -- are being relied on as a basis for a series of **legally binding agreements between LCWSD and Flathead County involving some \$21,000,000 million plus in Federal ARPA Funds.**

A series of Interlocal Agreements consummating a prospective septic collection, treatment, and disposal from across Flathead County² are scheduled for votes by respective County and District Boards without any public hearings. The LCWSD Board has just published notice of its intent to act on the Agreements on 2/20/24 under “old business” at their monthly board meeting, and so too Flathead County intends to take action at their 2/22/24 business meeting.

We are asking the DEQ, under your legal duty to administer the Montana Water Quality Act and other pertinent water supply, distribution, and

¹ "Lakeside Wastewater Treatment Facility Capacity", Letter from LCWSD to Flathead County Commission, January 3, 2024, available online at:

https://flathead.mt.gov/application/files/1317/0449/7837/LCWSD_Capacity_Letter.pdf

² See attached

treatment statutes, to inform the LCWSD that it must table any consideration of approval of these agreements until the DEQ has first had an opportunity to evaluate, document, and verify the claims being made LCWSD, claims that have become the basis of Flathead County's proposal to fund future wastewater treatment and disposal facilities at the LCWSD.

The basis of the new proposed Interlocal Agreements and sewer capacity documents is a singular power point presentation³ prepared by RPA Engineering, dated 12/2023, and delivered to the Flathead County Commissioners at some unknown date, the LCWSD asserted that it was now feasible for the LCWSD to receive 20,000 gallons per day of county-wide septage in lieu of the county constructing a county-owned septage facility. This presentation represents that LCWSD will be able to service a potential additional 20,000 gallons per day of septic waste by adding a sequencing batch reactor (*SBR*) and a series of Rapid Infiltration Basins (RIBs) that will require a new groundwater discharge permit from DEQ.

LCWSD committed on 1/3/24 that it will be able to accept and treat 60,000 gallons per day of septic tank waste via a letter to the Flathead County Commissioners signed by Austin Wargo, PE, *Project Engineer* with RPA Engineering on behalf of LCWSD (though it should be noted this letter was missing any engineering seal certifying the validity of the information included in the letter.)

Again, we request that DEQ immediately review this matter and, at a minimum, instruct LCWSD that it must abstain from any decision-making regarding legal commitments to accept new wastewater treatment and disposal responsibilities pending DEQ review and approval.

DEQ's review should look at not only the factual, legal, and scientific basis for the District's claims to have capacity for receiving and providing treatment and disposal through groundwater injection of this septic waste, but also examine the growing demand for new residential and commercial uses in this district, recent District denials of service capacity to some applicants, and the questionable status of the existing 15 to 20 acres of sewage holding and treatment ponds which appear to be leaking to state waters without a discharge permit and which we understand have not been pumped since they were built in 1988. Citizens for a Better Flathead (CBF) and North Shore Water Alliance have been unable to document that the District's existing sewage ponds have ever been independently tested for leakage, which based on our review of the district's minutes and reports, could likely, when done, reveal leakage very similar to leakage found recently at the Holland Lake sewage pond facilities.

Second, we request the Department evaluate recent studies by consultants to the District who have found previously undisclosed issues with soil liquification. We understand that DEQ has stated to other Flathead County entities that similar ponds for wastewater storage may not be built in this area, begging the question of why LCWSD's existing ponds have not been fully examined in terms of their storage efficacy and in terms of whether un-permitted discharges of pollution to

³ See attached LCWSD powerpoint attached hereto.

state waters are already occurring. See MCA § 75-5-605, 75-5-636. We request DEQ undertake these investigations immediately.

By way of backstory, you may be aware that Flathead County has long-proposed a county-built septic receiving as a possible means to address growing social, ecological, and public health concerns about the current practice of spreading septic tank pumpings on farm fields in Flathead County. There are some 30,000 known septic tanks in the county. While we recognize and support the need for a better solution for the disposal of an estimated 60,000 gallons per day of septic tank waste from Flathead County subdivisions, the new pending proposal by LCWSD to dispose of this waste water by ground injection into a shallow and sensitive alluvial aquifer a mere mile north of the Flathead Lake is lacking critically necessary scientific inquiry and vetting.

We note that LCWSD has applied for a groundwater discharge permit at DEQ, and that DEQ has already issued two Deficiency Letters to LCWSD questioning the proposed discharge, the suitability of local water resources to safely receive septage wastes, and potentially significant offsite impacts to high-quality state waters.

We are also concerned that the LCWSD is failing in its duty to inform its District residents of treatment expansion or new capacity commitments, or to follow Montana Code Annotated requirements regarding ratepayer approvals to serve new connections from outside a District. A number of members of CBF are members within the District, and such members share our concerns expressed above regarding improper public notice and zero public participation, about potential degradation of state waters, and the lack of transparency and oversight to both ratepayers and DEQ in its public sanitation oversight role.

As the state agency with explicit oversight of public water supply and sanitation, and unique oversight over public sewage facilities, we request DEQ's immediate review and scrutiny of the legal and scientific basis for proposed Interlocal Agreement binding LCWSD to accept, treat, and dispose of gross septage pumping from Flathead County.

We respectfully request DEQ's response to this letter on or before February 20, 2024, the date on which LCWSD proposes to take action on the septage Interlocal Agreement with Flathead County. You may reach the undersigned via our contact information below.

Sincerely-

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CC the Water Division Administrator, lkrywaruchka@mt.gov