

# MADISON COUNTY PLANNING

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## **RE: New Environmental Assessment Requirements for Subdivision Applications**

Effective immediately, Madison County will be requiring additional hydrological information as part of the Environmental Assessment submitted within subdivision applications.

The recent *Upper Missouri Waterkeepers v. Broadwater County* Order (February 14, 2024) has resulted in case law specific to water resource data and information required within a subdivision application's Environmental Assessment. Environmental Assessments must include detailed information regarding the following:

- Basic hydrological characteristics of the aquifer.
- How surface waters interact with the aquifer.
- How the proposed water usage within the subdivision will impact other water users on the aquifer.
- A detailed plan of how the water use within the subdivision will remain within the limits of the relevant appropriation, regardless of whether it is an exempt well or a water right permitted by the DNRC.
- Whether the project will result in nitrogenous pollution to any nearby water bodies, regardless of whether the water body is within 1,000 feet of the project.

The above information, and all information submitted as part of the Environmental Assessment, must pertain to both the subject property and adjacent property. Additionally, the order in *Upper Missouri Waterkeepers v. Broadwater County* clarified that each project is allowed one exempt groundwater appropriation. This applies regardless of whether the development plan includes multiple phases. The entire project may only propose one 10-acre-foot groundwater exemption. Applications for a proposed subdivision which would obtain water from more than one exempt groundwater appropriation will be deemed insufficient.

Because this is recent case law and the situation is dynamic, we expect our guidance and processes to be fluid. However, we can certainly expect that a subdivision application requirement will be a more thorough proposal, specifically in regards to the Environmental Assessment, Summary of Probable Impacts, and Community Impact Report.

If you have a Preliminary Plat application currently under review, please expect the Madison County Planning office to reach out to you with guidance for your project. If your subdivision application has been through the Pre-Application stage and you are preparing a Preliminary Plat application for submittal, please be prepared to include the above noted information, as a lack of this information will result in a "insufficient" application. For further questions or guidance, please reach out to the Madison County Planning office.

Thank you,



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