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To: Richard Mylott/R8/USEPA/US@EPA
From: Ed Kemmick <EKemmick@billingsgazette.com>
Date: 09/08/2011 02:07PM
Subject: Kemmick questions

Rich:

I got your voicemail, and I thought I'd respond via email.

First, in general: Who should I be attributing these answers to? You? Someone else? The EPA? I thought I was submitting questions that would be reviewed and then answered by specific folks in the agency. I'm OK with whatever you want to do, but I do need to be able to make some kind of attribution.

OK, specifics:

The response I had the most trouble with was the one in regard to my second question, relating to costs. Dave Mumford said the economic hardship threshold for Billings meant the city would have to spend $300 million before getting any kind of variance. Your response was: "EPA has not made any determinations about the City of

Billings and its eligibility for a variance. However, if eligible for a variance, EPA expects that compliance costs will be substantially less than complying with nutrient criteria."

I'm afraid I honestly don't know what that means. You seem to be saying that if Billings is granted a variance, it could have to spend less than $300 million. Is that close? And although I understand no final decision has been made on Billings' eligibility for a variance, Mumford said the EPA, specifically Tina Laidlaw, has made it clear that the hardship level of 2 to 2.3 percent of median household is quite firm, meaning wastewater rates would have to go to $90 a month per ratepayer before Billings would receive a waiver. I understand that Tina called Mumford today to clarify her views, but this information was presented by Mumford to the City Council unequivocally and I will stick with it unless I hear something more specific than the statement I quoted above.

I found the response to Question 3 similarly vague. The EPA itself has made a compelling case for using numeric standards, saying they make it possible to fairly and efficiently monitor compliance. If that is true, how does the EPA plan to monitor nonpoint discharges fairly and efficiently? The municipal officials I've spoken with emphatically and unanimously say they are being forced to absorb all the costs of reducing nutrients. Is this or is this not true? What specifically is the EPA doing to ensure that nonpoint sources are taking the kinds of steps that would result in a reduction of nutrients anywhere commensurate with what cities are being told to do?

On Question 4, regarding Montana Senate Bill 367, you responded: "EPA continues to collaborate with MDEQ on the State's rulemaking package associated with SB 367 to ensure consistency with the Clean Water Act. Some details associated with the State's approach are still being resolved."

I'm sorry to say it again, but this is awfully vague. Mumford, John Rundquist, Dave Galt and Bill Mercer all said they got the distinct impression that the EPA is unwilling to accept the timetables and standards contained in SB 367. They are, again, emphatic on this point, while the EPA response sent to me says almost nothing at all. Can you tell me what statements have been made to the Nutrient Working Group that lead to this belief, or explain how all these parties could come away with such an apparently mistaken impression?

I'm sorry if I sound frustrated. I'm am only asking these questions because I want to be able to present both sides of each issue raised, and on the one side I have detailed, quite precise statements and allegations, and from the EPA almost nothing but vague, general statements of intent. I can use those if I can't get anything else, but in all honesty they are going to make it look as though the EPA is dodging all the touch questions.

Also, going back to the subject of attribution, I don't like to confuse my readers, so I will have to explain that although Ms. Laidlaw is the EPA representative everyone I spoke with is taking guidance from, she did not consent to an interview, and only answered questions through the agency's information office -- or something to that effect.

Thanks. Yours,
Ed Kemmick