

EQC Presentation: DNRC 2009 Legislation Under Consideration

July 2, 2008

Water Resources Division:

- 1) **OBPP #5706/24/002 Revising Closed Water Basin Permitting:** Provide that in a closed basin (typically closed to new water surface rights) a mitigation plan is required for all groundwater applications which report a net depletion to surface water (this protects senior water rights). Revise the requirements for a hydrogeologic assessment in general scientific terms to allow a department staff expert (hydrogeologist) some discretion in identifying the extent and scope of the report for the specific groundwater application so reports from applicants are no more expensive or extensive than is necessary for a department decision. Provide statutory instructions of what actions are not allowed in a mitigation plan. Applicants should not be given mitigation credit for the removal of riparian vegetation (cottonwoods) or capture of rainfall from paved areas for which they have no control over or a water right to those waters for mitigation.
- 2) **OBPP #5706/24/004 Improve Water Permitting Process:** Provide an applicant for a water use permit or change authorization notice of the department's opinion on whether they have met the criteria for issuance, earlier in the application process. By issuing an opinion to grant or to deny earlier, either the applicant or the objectors could be saved from expenses they may choose not to expend.
- 3) **OBPP #5706/24/009 Update Controlled Groundwater Area Petition Process:** To clearly identify the process for petitioning and designating a controlled groundwater area under 85-2-506, 507 and 508, MCA, as a MAPA rulemaking process rather than through a contested case type litigation process. A rulemaking process for designating a controlled groundwater area will be less costly and less traumatic for all parties than designation after extensive litigation, and will provide all necessary public input.
- 4) **OBPP #5706/24/010 Clarify Groundwater Utilization:** The Department sees conflict within the current statutes for appropriating water in closed basins. Clarification is needed to allow appropriations of water to ensure the wise utilization, maximization and conservation of the resource for the benefit of the people of the state.
- 5) **OBPP #5706/24/011 General Water Use Compliance Cleanup:** There are parts of the current statutes that are typically not complied with and other areas that are not fully and efficiently utilized. Clarifications and modifications would provide more efficient process to comply with or to utilize those sections.
- 6) **OBPP #5706/24/012 Floodplain Map Adoption Efficiency:** Eliminate the need for state public hearings for adoption of floodplain maps that have been or are being formally adopted thru a formal process by a federal agency. Provide statutory language that if the state participates as a party in the federal adoption process, the state adoption requirement in 76-5-202, MCA is satisfied unless the state decides otherwise. Fiscal Impact: \$10,000/yr depending on degree of appeals.

Trust Lands Management Division:

- 1) **OBPP #5706/35/005 Trust Land Funding Reform:** The purpose of this bill is to provide a funding framework for the Trust Land Management Division that is simplified (reduces 7 funding accounts to 2), and provides greater flexibility in accounting for costs by trust beneficiary. This bill would implement recommendation from the 2006 DNRC Performance Audit. No fiscal impact.

- 2) **OBPP #5706/35/008 Modify Salvage Timber Permit Volume:** The purpose of this bill is to revise advertising requirements for timber salvage harvest allowed under 77-5-212(1)(b) MCA. Current law allows permits to be issued for emergency timber sales up to 200,000 board feet without advertising. Proposed changes would allow up to 500,000 board feet to be sold as a commercial permit without advertising. The passage of this bill would facilitate the timely recovery of timber value associated with wildfire, insect and disease, and other salvage opportunities.

Conservation And Resource Development Division:

- 1) **OBPP #5706/23/007 Public Water and Wastewater Finance Cleanup:** These items are cleanup for old water and wastewater public financing statutes which no longer apply. No fiscal impact.

Reserved Water Rights Compact Commission:

- 1) **OBPP #5707/25/003 Sunset Reserved Water Rights Compact Commission:** To repeal the statutes authorizing the RWRCC and to amend certain procedures relating to the Tribes and the Montana water adjudication. Repeal 20-15-212. Amend Title 85 Part 7 and 85-2-217 MCA. Fiscal Impact: General Fund reduction of 2.5 FTE (2 attorneys and one half-time hydrologist), no per diem for RWRCC (approximately \$4,500 per year), reduced travel. Remaining 5 FTE become an implementation bureau in Water Resources Bureau in DNRC.
- 2) **OBPP #5706/25/013 Blackfeet Water Compact:** To approve the settlement reached between the State and the Tribe in December 2007. To appropriate additional state cost share for compact implementation. Amend 85-20-1501 through 85-20-1506 MCA. Fiscal Impact: \$3 million additional general fund into 85-20-1504 Blackfeet Tribe Water Rights Compact Mitigation Account for future leasing, etc. \$15 to \$20 million bonding authority into 85-20-1505 Blackfeet Tribe Water Rights Compact Infrastructure Account primarily for Four Horns Reservoir reconstruction.
- 3) **OBPP #5706/25/014 Fort Belknap Implementation and Financing:** Amend 85-20-1004, 1005, 1007 implementing the Fort Belknap-Montana Water Rights Compact, and creating certain accounts. Changes are sought to clarify how state and federal monies will be expended. Additional funds are sought to complete state cost share. Fiscal Impact: Potential General Funds \$5 million (due to inflation, administrative and bonding costs and funding shift from bonding for People's Creek Reservoir to General Fund transfer to the Tribes

Board of Oil and Gas Conservation:

- 1) **OBPP #5707/22/015 Enhance Recovery of Oil and Gas:** Modify current well compulsory pooling requirements by lowering required approvals from 80% of working and royalty interests to 60% of royalty interests and 70% of Working interest owners. No fiscal impact.
- 2) **OBPP #5706/22/016 Clarify Oil Well Unit Spacing Requirements:** Modify current well spacing unit requirements to clarify intent of the statute is to allow well spacing exception to well locations only, not to the spacing unit itself. No fiscal impact.