

BEFORE THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the adoption of a rule)	NOTICE OF PROPOSED
specifying deadline for water rights)	ADOPTION
adjudication fee appeals under)	
Adjudication Fee)	NO PUBLIC HEARING
)	CONTEMPLATED

To: All Concerned Persons

1. On March 9, 2006, the Department of Natural Resources and Conservation proposes to adopt a rule specifying a deadline for water rights adjudication fee appeals under Adjudication Fees.

2. The Department of Natural Resources and Conservation will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m. on February 23, 2006, to advise us of the nature of the accommodation that you need. Please contact Kim Overcast; 1424 9th Ave, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-6614; fax (406) 444-0533; or e-mail to kovercast@mt.gov.

3. The proposed new rule provides as follows:

NEW RULE I APPEAL DEADLINE (1) An appeal filed with the department pursuant to 85-2-276(9), MCA, must be postmarked or faxed to the department by March 31 of the year in which the payment is due. Appeals after this date will not be accepted.

AUTH: 85-2-276(9), MCA
 IMP: 15-1-216, 85-2-237, 85-2-270, 85-2-271, 85-2-272, 85-2-273,
 85-2-276, 85-2-279, 85-2-280, 85-2-281, 85-2-282, 85-2-283,
 MCA

4. REASONABLE NECESSITY: House Bill 22 enacted by the 2005 Legislature allows for an administrative appeal process. Water right owners are sent a bill and if payment is not received within 30 days, a second bill is sent that adds penalty and interest fees. If the second bill is not paid, then the bill will go to a debt collection status and a lien will be placed on the water right. A rule is necessary to set a deadline for administrative adjudication fee appeals during the year in which the fees are due, so it is known if water right fees are being appealed. Water right fees that are appealed will not be placed in debt collection status. The Department needs to know which rights will be appealed so that it can set funding levels for the adjudication program.

5. Concerned persons may submit their data, views, or arguments concerning the proposed rule in writing to Kim Overcast; 1424 9th Ave, P.O. Box 201601, Helena, MT 59620-1601; or e-mail to kovercast@mt.gov, and must be received no later than February 23, 2006.

6. If persons who are directly affected by the proposed adoption wish to express their data, views and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Kim Overcast; 1424 9th Ave, P.O. Box 201601, Helena, MT 59620-1601. A request for hearing must be received no later than February 23, 2006.

7. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be at least 25 persons based on the number of water rights owners in the state.

8. The Department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources or combination thereof. Such written request may be mailed or delivered to Legal Unit, Department of Natural Resources and Conservation, P.O. Box 201601, 1625 11th Avenue, Helena, MT 59620-1601, faxed to the office at (406) 444-2684, or may be made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor requirements of 2-4-302, MCA, apply and have been fulfilled.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

/s/ Mary Sexton
MARY SEXTON
Director

/s/ Anne Yates
ANNE YATES
Rule Reviewer

Certified to the Secretary of State January 13, 2006.