



Montana Legislative Services Division

Legal Services Office

TO: Environmental Quality Council
FROM: Helen Thigpen, Staff Attorney
DATE: November 15, 2011
RE: Legislative Administrative Rule Review Report

Pursuant to 75-1-324 and 5-5-215, MCA, the Environmental Quality Council is responsible for reviewing administrative rules within its jurisdiction. Staff for the Environmental Quality Council has prepared this report for informational purposes only. This report does not represent any action or opinion of the Environmental Quality Council and does not preclude additional action that may be taken by the Environmental Quality Council pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER:

36-22-161

AGENCY/BOARD:

Department of Natural Resources and Conservation

RULE CLASSIFICATION: (e.g., substantive/interpretative/emergency/temporary)

Substantive

SUBJECT:

Horse Creek Controlled Groundwater Area

NOTICE DESCRIPTION: (e.g., proposal notice/adoption notice)

Notice of Public Hearing on Proposed Amendment

SUMMARY OF RULE(S):

The DNRC is proposing to designate a permanent Horse Creek Controlled Groundwater Area (HCCGA). The HCCGA will consist of approximately 7,995 acres near Absarokee, Montana. As required by 85-2-506, MCA, the proposed rule describes the boundaries of the HCCGA.

The proposed rule provides that the DNRC will accept a Notice of Completion of Groundwater Development, Form 602, if certain criteria are met, including that the maximum appropriation is 35 gallons per minute or less. Otherwise, a water use permit 2

(Form 600) will be required. The proposed rule provides additional measures that must be taken by water users.

The DNRC designated the HCCGA as a temporary controlled groundwater area on February 12, 2004. The HCCGA was originally set to expire after 2 years, but was extended for an additional 4 years until February 12, 2010. The purpose of the designation, according to DNRC, was to gather information on aquifer properties, recharge, and withdrawals, and to determine the necessity of a permanent controlled groundwater area.

In the current proposal, the DNRC states that “[d]ata collected within the boundaries of the temporary [HCCGA] over approximately a four-year time period shows that springs in the Horse Creek drainage could dry up and the average annual flows in Horse Creek could be reduced by 25 percent during dry years if a platted subdivision (Crow Chief Meadows) is completed as intended.” DNRC states that the rules are needed to protect senior water right users in the area.

NOTES: (e.g., hearing dates)

A hearing is scheduled on November 17, 2011, at 6:00 p.m., at the Cobblestone Community Center, 242 South Woddard Avenue, Absarokee, Montana. Comments will be accepted until November 25, 2011.

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