

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



GREG GIANFORTE, GOVERNOR

1539 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE: (406) 444-2074
FAX: (406) 444-2684

PO BOX 201601
HELENA, MONTANA 59620-1601

RECEIVED

SEP 14 2023

Ravalli County Commissioners

--	--	--	--	--

DATE: September 8, 2023

TO: Landowners/Water Right Holder/Interested Parties

FROM: Department of Natural Resources and Conservation

RE: Notice of Adoption of Administrative Rules pertaining to ARM 36.12.909 regarding the Bitterroot Valley Sanitary Landfill Controlled Groundwater Area (BVSL CGWA)

This notice is to advise you the Department of Natural Resources and Conservation (DNRC) adopted administrative rules pertaining to ARM 36.12.909 regarding the Bitterroot Valley Sanitary Landfill Controlled Groundwater Area (BVSL CGWA). The proposed rules were published by the Secretary of State's Office in the Montana Administrative Register, Issue No. 11 on June 9, 2023, a hearing held on July 11, 2023, and the public comment period ended on July 12, 2023.

Included is a copy of the adoption notice which published by the Secretary of State on September 8, 2023, with rules effective on September 9, 2023. A copy of the notice is available through the Secretary of State's website at <http://sos.mt.gov/ARM/Register> and is also available on the DNRC website at <https://dnrc.mt.gov/News>. Please contact Jim Nave, Department of Natural Resources and Conservation, Missoula Regional Office, (406) 721-4284, or e-mail jnave@mt.gov, if you have any questions regarding these rules.

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

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I regarding the Bitterroot Valley)
Sanitary Landfill Controlled)
Groundwater Area)

TO: All Concerned Persons

1. On June 9, 2023, the Department of Natural Resources and Conservation published MAR Notice No. 36-22-217 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 514 of the 2023 Montana Administrative Register, Issue Number 11.

2. The department has adopted the above-stated rule as proposed: New Rule I (36.12.909).

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received, and the department's responses are as follows:

COMMENT 1: The rule should be adopted as proposed.

RESPONSE 1: The department agrees.

COMMENT 2: How could an applicant satisfy the requirements of the proposed rule stating that an "applicant must demonstrate that proposed withdrawals will not contribute to expansion of the contaminated plume outside of the BVSL CGWA boundaries"?

RESPONSE 2: The boundaries of the proposed controlled groundwater area were drawn based on groundwater modeling generated by the Department of Environmental Quality (DEQ) using the most recent data collected at BVSL that builds upon and updates the modeling used to generate the original CGWA boundary to represent current conditions as accurately as possible. An applicant would need to provide new evidence and data that could be relied upon by DEQ in its boundary formulation demonstrating that groundwater withdrawals will not contribute to expansion of the plume.

COMMENT 3: Would DEQ or DNRC consider modeling more frequently to update the BVSL CGWA?

RESPONSE 3: The proposed rule does not dictate a modeling or CGWA revision interval; however, DEQ continues to annually monitor groundwater at BVSL. DEQ has indicated it will petition DNRC for appropriate changes to the CGWA if groundwater conditions warrant further changes.

COMMENT 4: Would DEQ or DNRC consider adding an additional deep well for a property owner who is still severely affected by this updated CGWA and possibly reimburse the whole or partial cost that was spent to get the DEQ 3 approval?

RESPONSE 4: The proposed rule does not pertain to "DEQ 3" approval and would not affect or dictate any reimbursement.

COMMENT 5: Would adding or reactivating abandoned monitoring wells affect the outcome of proposed CGWA modeling for future?

RESPONSE 5: DEQ hired a contractor to model groundwater within the historically contaminated area. That modeling is the basis for the boundary of the proposed CGWA. DNRC does not have information that indicates additional wells should be added to or reactivated within DEQ's current monitoring program. Wells were removed from the monitoring program once concentrations of contaminants at those locations no longer exceeded groundwater standards for a sufficient period. Further data collection at wells removed from the program is not likely to significantly affect groundwater modeling outcomes.

/s/ Brian Bramblett
Brian Bramblett
Rule Reviewer

/s/ Amanda Kaster
Amanda Kaster
Director
Natural Resources and Conservation

Certified to the Secretary of State August 29, 2023.