

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

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IN THE MATTER OF PETITION NO.)
96018-76H TO THE DEPARTMENT OF)
NATURAL RESOURCES AND) FINAL
CONSERVATION FOR DESIGNATION) ORDER
OF A CONTROLLED GROUNDWATER)
AREA IN THE HAYES CREEK BASIN)

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A Proposal for Decision (Proposal) in the above-entitled matter was issued October 7, 1998. Copies of the Proposal were mailed to all interested parties. The Proposal recommended designation of a controlled groundwater area in the area delineated in the petition.

The Director of the Department of Natural Resources and Conservation, having given the matter full consideration, hereby accepts and adopts the Findings of Fact and Conclusions of Law as contained in the October 7, 1998, Proposal and incorporates them herein by reference.

THEREFORE, based upon the record herein, the Director makes the following:

ORDER

Effective on the service date of this Final Order, a permanent controlled groundwater area is established for both the shallow alluvial and the deep fractured bedrock aquifers under approximately 2,465 acres in the Hayes Creek drainage basin, generally described as follows:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	SECTION 3;
S $\frac{1}{2}$ S $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$	SECTION 4;
S $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$	SECTION 5;
S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$	SECTION 6;
N $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$	SECTION 7;
N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$	SECTION 7;
N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$	SECTION 8;
N $\frac{1}{2}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$	SECTION 9;
N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$	SECTION 10

all in Township 12 North, Range 20 West; excluding the area of the permanently controlled groundwater area.

The existing permanently controlled groundwater area is located in: NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, Township 12 North, Range 20 West, Missoula County, Montana.

A. A person may appropriate groundwater in a controlled groundwater area only by applying for and receiving a permit from the Department before drilling a well. The Department may not grant a permit if the withdrawal would be beyond the capacity of the aquifers in the groundwater area to yield groundwater within a reasonable or feasible lift. Mont. Code Ann. § 85-2-508 (1997).

B. There shall be no more than one well on each lot with lot sizes limited to current local zoning regulations. Replacement wells may be installed, provided the older well is abandoned in accordance with Mont. Admin. R. 36.21.670 (1997).

C. New groundwater permits in the controlled groundwater area shall include a condition that groundwater withdrawals may be limited in the future.

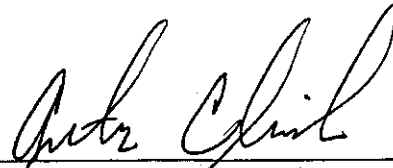
D. Static water levels shall be measured monthly during the spring and summer of each year. Written records must be kept and those records shall be submitted to the Department by November 30 of each year. The Department will select certain wells in the area which would provide a reasonable measure of groundwater levels in different parts of the subdivisions and the surrounding area.

E. The Department shall, in cooperation with the property owners in the controlled groundwater area, select a groundwater supervisor who would be responsible for monitoring groundwater levels, taking groundwater samples, and administering water in accordance with any suggested water use restrictions based upon current or anticipated low static water levels. The groundwater supervisor could require metering of groundwater withdrawals, optionally for irrigation purposes only, if it is deemed necessary to administer groundwater use limitations. The groundwater supervisor would have the authority to request assistance from the Department in enforcing the final order, including the impositions of fines and other civil penalties authorized under Mont. Code Ann. § 85-1-114 and 122 (1997).

NOTICE

The Department's Final Order may be appealed in accordance with the Montana Administrative Procedure Act by filing a petition in the appropriate court within 30 days after service of the Final Order. If a petition for judicial review is filed, the Department will transmit a copy of the tape(s) of the oral proceedings to the district court. If a party to the proceeding elects to have a written transcription prepared, that party may purchase the tapes and have a transcript prepared.

Dated this 30th day of November, 1998.



Arthur Clinch, Director
Department of Natural Resources
and Conservation
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