

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

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IN THE MATTER OF PETITION NO.)	
76G-107614 TO THE DEPARTMENT)	
OF NATURAL RESOURCES AND)	FINAL
CONSERVATION FOR DESIGNATION)	ORDER
OF A CONTROLLED GROUNDWATER)	
AREA)	

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The Proposal for Decision (Proposal) in the above matter was issued November 3, 1999. Copies of the Proposal were mailed to all interested parties. The Proposal recommended designation of the Old Butte Landfill/Clark Tailings Site and the surrounding area as a controlled groundwater area. The Old Butte Landfill/Clark Tailings Site location is generally described as the S2SW3 and SW3SE3 of Section 24, NW3, W2NE3, SW3, and W2W2SE3 of Section 25, E2SE3 and SE3SE3NE3 of Section 26, NE3NE3 of Section 35, and N2NW3 of Section 36, all in Township 3 North, Range 8 West, within the Grove Gulch drainage in Silver Bow County, Montana.

No objections to the Proposal were received by the Department of Natural Resources and Conservation. Therefore, the Director of the Department of Natural Resources and Conservation, having given the matter full consideration, accepts and adopts the Findings of Facts and Conclusions of Law as contained in the November 3, 1999, Proposal and incorporates them by reference.

WHEREFORE, based upon the record, the Director makes the following:

ORDER

Controlled Groundwater Area 76G-107614 is designated for the Old Butte Landfill/Clark Tailings site and the surrounding area as show on the attached map, generally described as the S2SW3 and SW3SE3 of Section 24, NW3, W2NE3, SW3, and W2W2SE3 of Section 25, E2SE3 and SE3SE3NE3 of Section 26, NE3NE3 of Section 35, and N2NW3 of Section 36, all in Township 3 North, Range 8 West, within the Grove Gulch drainage in Silver Bow County, Montana. The area consists of four zones as delineated on the attached map.

These conditions will apply to all new wells within the controlled groundwater area except monitoring/treatment wells necessary for environmental cleanup purposes.

A. Drilling and installation of water wells within the boundaries of the controlled groundwater are prohibited without first obtaining a permit from the Department of Natural Resources and Conservation.

B. Wells will be permitted or excluded within the respective zones as follows: (a) no new wells are permitted within Zones 1 and 2; (b) no new wells pumping more than 10 gallons per minute will be allowed in Zone 3; (c) no new wells pumping more than 200 gallons per minute or more will be allowed in Zone 4.

C. All new wells permitted within Controlled Groundwater

Area 76G-107614's boundary must be sampled and analyzed for the following constituents: (a) Landfill Groundwater Monitoring Analysis List, Table 1 constituents; (b) Volatile Organic Carbons long list-EPA Method 8260 constituents; (c) Phthalate esters-EPA Methods 8270 constituents; and (d) Chlorinated Acid Herbicides EPA Method 515.1 constituents. The well sampling results will be reviewed by Butte-Silver Bow Water Quality District on an annual basis to determine the continued need to sample specific constituents.

D. Any new wells permitted for human consumption within Controlled Groundwater Area 76G-107614 must produce water that meets all applicable WQB-7 water quality standards or other updated human health standards.

E. Any well meeting the requirements outlined in the preceding conditions B through D, may be used for its permitted beneficial use as long as the water quality remains in compliance with the provisions of Controlled Groundwater Area 76G-107614. All wells remain subject to future random sampling deemed necessary by state or local health agencies. The Butte-Silver Bow Water Quality District Water Quality District will conduct a water quality monitoring program for new permitted wells within Controlled Groundwater Area 76G-107614. New wells will be sampled upon installation, and then on a quarterly basis thereafter.

F. All new monitoring wells drilled within Controlled

Groundwater Area 76G-107614 shall be installed in accordance with the EPA-approved Standard Operating Procedure (SOP GROUNDWATER-3) for monitoring well design and construction.

G. The grant of Controlled Groundwater Area 76G-107614 does not preempt diversion required for remedial or response actions authorized by EPA or remedial or response action undertaken by the State of Montana pursuant to its roll as trustee for natural resources.

H. The granting of this petition for a controlled groundwater area in no way limits any claim the State of Montana, as trustee for natural resources, may have for damages to natural resources.

I. The granting of this petition for a controlled groundwater area does not constitute an irreversible and irretrievable commitment of the groundwater resource, nor does it serve as a permit for the release of hazardous substances into the groundwater aquifer.

J. Controlled Groundwater Area 76G-107614 is being issued in recognition of existing contaminated conditions and does not relieve any person from liability for contamination of the groundwater.

K. The grant of Controlled Groundwater Area 76G-107614 is not an indication or a finding that the groundwater aquifer should not be remediated or restored.

L. The boundaries and provisions of Controlled Groundwater

Area 76G-107614 may be amended if the groundwater quality in a certain area shows improvement to comply with applicable human health standards.

M. Any new well drilled within the boundary of Controlled Groundwater Area 76G-107614 not meeting the requirements outlined in the above items must be abandoned according to the Board of Water Well Contractors Well Construction Standards. Mont. Admin. R. Title 37, Chapter 43.

NOTICE

The Department's Final Order may be appealed in accordance with the Montana Administrative Procedures 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 tape(s) and have a transcript prepared.

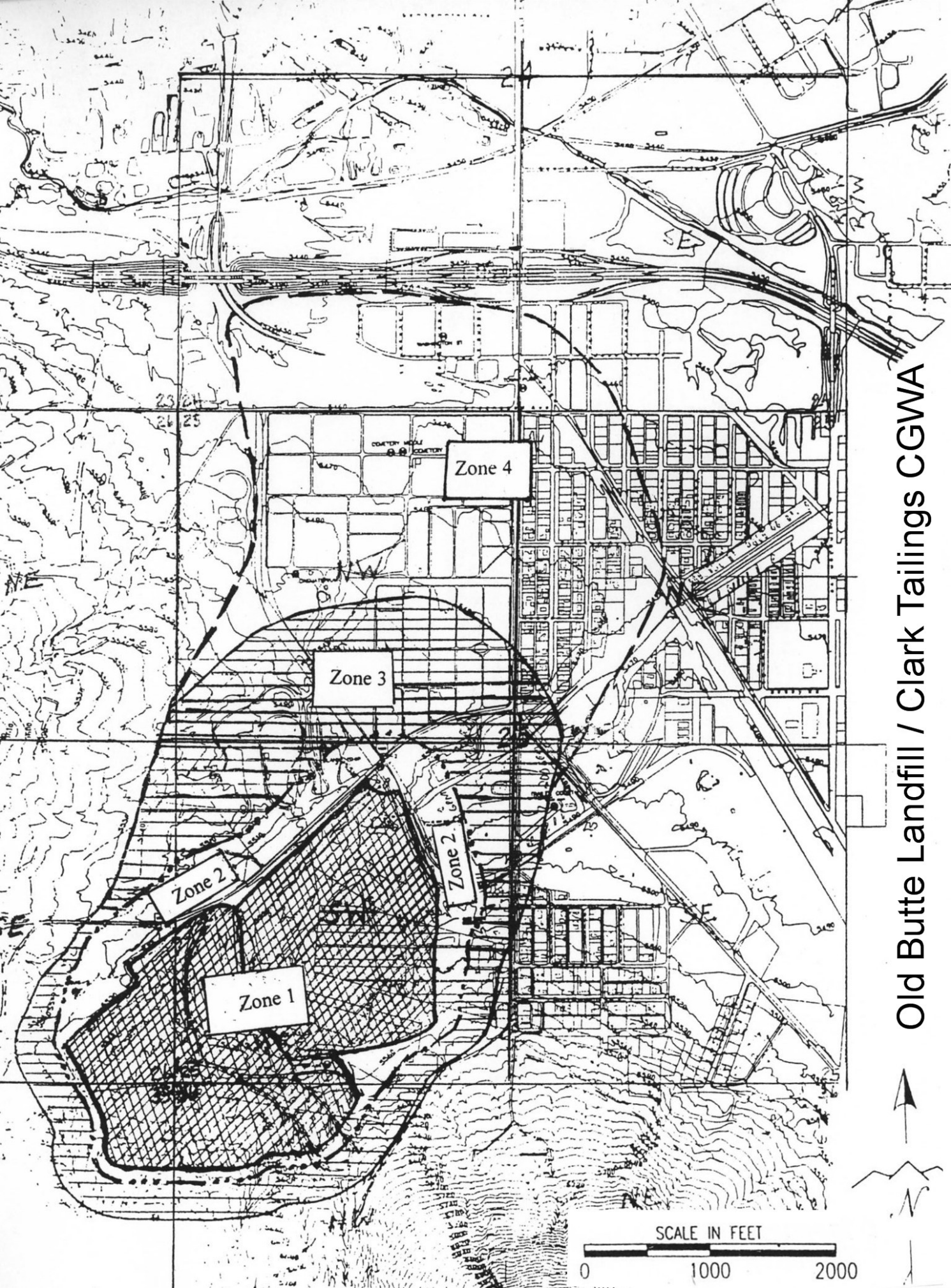
Dated this _____ day of December, 1999.

Arthur Clinch, Director
Department of Natural Resources
and Conservation
1625 Eleventh Avenue
Helena, Montana 59620
(406)444-2074

CERTIFICATE OF SERVICE

This certifies a true and correct copy of the Final Order was served on all parties listed on the attached pages this _____ of December, 1999.

Jennifer Hensley
Hearings Assistant



Old Butte Landfill / Clark Tailings CGWA

SCALE IN FEET

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