

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

In the matter of the adoption of New Rule I ) NOTICE OF PUBLIC HEARING  
regarding the Lockwood Solvent ) ON PROPOSED ADOPTION  
Groundwater Plume Site Controlled )  
Groundwater Area )

To: All Concerned Persons

1. On August 23, 2018, at 1:00 p.m., the Department of Natural Resources and Conservation will hold a public hearing in the Board of Oil and Gas Conservation Conference Room, 2535 St. Johns Avenue, Billings, MT, to consider the proposed adoption of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on August 3, 2018, to advise us of the nature of the accommodation that you need. Please contact Millie Heffner, Montana Department of Natural Resources and Conservation, P.O. Box 201601, 1424 Ninth Avenue, Helena, MT 59620-1601; telephone (406) 444-0581; fax (406) 444-0533; or e-mail mheffner@mt.gov.

3. The department proposes to adopt the following rule:

NEW RULE I LOCKWOOD SOLVENT GROUNDWATER PLUME SITE CONTROLLED GROUNDWATER AREA (1) There is designated a Lockwood Solvent Groundwater Plume Site Controlled Groundwater Area (LSGPS CGWA). The LSGPS CGWA means an area of approximately 336 acres located east of Billings, Montana, and is generally described as follows:

(a) The LSGPS CGWA covers an area approximately 0.54 square miles and is generally located south and east of the Yellowstone River at Lockwood, Montana, between Rosebud Lane to the south, the Yellowstone River to the north and west, and Maier Road on the east (the east Section line of Sections 26 and 35, T1N, R26E). The boundaries are wholly within: N2N2 Section 35, T1N, R26E; S2 Section 26, T1N, R26E; and S2N2 Section 26, T1N, R26E.

(b) A map of the area within the LSGPS CGWA described in (1)(a) is posted at <http://dnrc.mt.gov/divisions/water/water-rights/controlled-ground-water-areas/lockwood>.

(2) Groundwater monitoring wells, test wells, and remediation wells are allowed within the boundaries of the LSGPS CGWA.

(3) Except as provided in (4), the department may not accept or process applications for any new or existing groundwater developments within the lateral boundaries of the LSGPS CGWA.

(4) The department may accept and process Forms 634 and 606 for the limited purpose of a replacement well within the LSGPS CGWA boundaries. To be considered a replacement well, the following criteria must be met:

(a) a well located outside the boundaries of LSGPS CGWA cannot be replaced within the boundaries of the LSGPS CGWA;

(b) the well to be replaced must be on record with the DNRC or must be a valid use based on 85-2-222, MCA;

(c) the replacement well must be in the same aquifer as the well being replaced;

(d) the flow rate of the replacement well must not exceed the flow rate of the well on record with the DNRC;

(e) the replacement well must be used for the same purpose as the well being replaced; and

(f) the well being replaced has been abandoned according to the current Montana Board of Water Well Contractor rules.

AUTH: 85-2-506, 85-2-508, MCA

IMP: 85-2-506, 85-2-508, MCA

REASONABLE NECESSITY: Section 85-2-506, MCA, authorizes the department to designate temporary or permanent controlled groundwater areas. A petition to designate a controlled groundwater area was filed with the department by the Yellowstone City/County Health Department doing business as RiverStone Health, Marilyn Tapia, director. The LSGPS CGWA area has been found to have chlorinated solvent contamination in soil and groundwater. The contaminants are primarily from Beall which manufactured and repaired tanker truck trailers and Soco West which historically operated as a chemical re-packaging and distribution company. Exposure to chlorinated solvents can occur through inhalation, ingestion, and skin contact or skin absorption. The designation of a permanent controlled groundwater area for the Lockwood Solvent Groundwater Plume Site is a remediation component specified in the Record of Decision (ROD [EPA/DEQ, 2005]) that is designed to protect human health. Chlorinated solvents have been detected in alluvial groundwater samples at levels that exceed human health standards and require remediation.

The proposed restrictions on groundwater development and changes to existing groundwater appropriations are needed to protect human health and safety.

A determination to initiate rulemaking proceedings was issued by the department on April 19, 2018.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted in writing to Millie Heffner, Department of Natural Resources and Conservation, P.O. Box 201601, 1424 Ninth Avenue, Helena, MT 59620; fax (406) 444-0533; or e-mail mheffner@mt.gov, and must be received no later than 5:00 p.m. on August 23, 2018.

5. Mark Elison, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

6. 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 that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Aliselina Strong, P.O. Box 201601, 1539 Eleventh Avenue, Helena, MT 59620; fax (406) 444-2684; e-mail astrong@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ John E. Tubbs  
JOHN E. TUBBS  
Director  
Natural Resources and Conservation

/s/ Brian C. Bramblett  
BRIAN C. BRAMBLETT  
Rule Reviewer

Certified to the Secretary of State July 10, 2018.