

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

\* \* \* \* \*

IN THE MATTER OF PETITION NO. 76N-115138 TO	)	
THE DEPARTMENT OF NATURAL RESOURCES AND	)	FINAL
CONSERVATION FOR DESIGNATION OF A CONTROLLED	)	ORDER
GROUNDWATER AREA NEAR PARADISE, MT	)	

\* \* \* \* \*

A Proposal for Decision in the above matter was issued June 18, 2001. Copies of the Proposal were mailed to all interested parties. The Proposal recommended designation of the Burlington Northern & Santa Fe Railway Company's old railroad tie-treating plant near Paradise, Montana as a controlled ground water area.

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 Fact and Conclusions of Law as contained in the June 11, 2001, Proposal and incorporates them by reference.

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

**ORDER**

Controlled Groundwater Area 76N-115138 is designated for all aquifers beneath the Burlington Northern and Santa Fe Railways Company property located between the railroad tracks and the Clark Fork River in the SW¼ of Section 17 and the NW¼ of Section 20, both in Township 19 North, Range 25 West, Sanders County, Montana. No wells for any purpose except monitoring can be installed in this area.

The controlled groundwater area does not apply to diversions required for remedial or response actions authorized by EPA or remedial or response actions undertaken by the State of Montana and diversions required for restoration actions undertaken by the State of Montana pursuant to its role as trustee for natural resources.

All new monitoring wells drilled within Controlled Groundwater Area 76N-115138 shall be installed in accordance with the EPA-approved

Standard Operating Procedure (SOP GROUNDWATER-3) for monitoring well design and construction.

The boundaries and provisions of Controlled Groundwater Area 76N-115138 may be amended if the groundwater quality within the area shows improvement to comply with applicable human health standards.

**NOTICES PERTAINING TO NATURAL RESOURCE DAMAGES**

1. The granting of this petition for a controlled groundwater area in no way limits any claims the State of Montana, as trustee for natural resources, may have for damage to natural resources.
2. 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.
3. The controlled groundwater area and groundwater closure is being issued in recognition of existing contaminated conditions and does not relieve any person from liability for contamination of the groundwater.

**APPEALS**

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 along with documentary evidence in the file. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2002.

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Arthur R. Clinch, Director  
Department of Natural Resources  
and Conservation  
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