Rocker Controlled Groundwater Area

Location: SW Section 16, Township 3N Range 8W
          SE Section 17, Township 3N Range 8W
          NE Section 20, Township 3N Range 8W
          NW Section 21, Township 3N Range 8W
          All in Silver Bow County

Effective Date:      May 30, 1997

Information:

- The reason for establishing this controlled groundwater area is contamination of the groundwater in three aquifers:
  - a. The Rocker Timber Framing Treatment Plant Operable Unit of the Silver Bow Creek-Butte Area Superfund Site,
  - b. A small portion of the Streamside Tailings Operable Unit Superfund Site, and
  - c. A 1/4 mile buffer zone radius around the contaminated groundwater area.

- This area is closed to all new appropriations of groundwater.

- This is not a permanent controlled groundwater area. During this closure, quarterly monitoring is being done to determine the effectiveness of remediation actions on the groundwater. The results of this monitoring are being reported to DNRC.

- Once the determination is made that the Rocker plume has been effectively mitigated to halt the threat of further migration, the Butte-Silver Bow Health Department will re-petition DNRC to remove the controlled groundwater area designation.
A Proposal for Decision in the above-entitled matter was issued February 18, 1997. Copies of the Proposal were mailed to all interested parties. Many exceptions were received by the Department. A review of the record indicated the Hearing Examiner misunderstood or misinterpreted the testimony of Kirk Waren and there was an error concerning the number of acres in the petition. An amended Proposal for Decision (Proposal) was issued April 3, 1997.

The Proposal recommended designation of a temporary controlled groundwater area for all three aquifers under the area identified on attached Figure 2 and described as follows:

the SW¼ of Section 16, the SE¼ of Section 17, the NE¼ of Section 20, and the NW¼ of Section 21, all in Township 3 North, Range 8 West, Silver Bow County, Montana. The boundaries of the area correspond closely to the boundaries of the RTFTP Operable Unit of the Silver Bow Creek-Butte Area Superfund Site near Rocker, Montana, and a small portion of the Streamside Tailings Operable Unit Superfund Site, plus an additional one-quarter mile buffer zone radius around the contaminated groundwater area, an area of approximately 160 acres.

The Department received one exception to the Proposal. The exceptions stated disagreement with Condition “E” which requires the Butte-Silver Bow Health Department (Petitioner) to send copies of the results of the quarterly monitoring of the remedy’s
effectiveness to the Department. The exception states, (U)nder the
current remedial action for the Rocker OU, the Atlantic Richfield
Company (ARCO) is responsible for sampling and monitoring the
remedy’s effectiveness. . . .” Petitioner believes ARCO should be
made to send the copies of the quarterly monitoring to the Department.

It is Petitioner’s responsibility to get those quarterly
monitoring reports to the Department. If Petitioner can arrange
for ARCO to send the reports to the Department, that is acceptable.
However, it is ultimately Petitioner’s responsibility to ensure
the quarterly monitoring results are sent to the Department.
Condition “E” will not be altered.

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 April 3, 1997, Proposal and incorporates them herein
by reference.

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

ORDER

A temporary controlled groundwater area is established for all
three aquifers under the area identified on attached Figure 2 and
described as follows:

the SW¼ of Section 16, the SE¼ of Section 17, the NE¼ of
Section 20, and the NW¼ of Section 21, all in Township
3 North, Range 8 West, Silver Bow County, Montana. The
boundaries of the area correspond closely to the boundaries
of the RTFTP Operable Unit of the Silver Bow Creek-Butte
Area Superfund Site near Rocker, Montana, and a small
portion of the Streamside Tailings Operable Unit Superfund
Site, plus an additional one-quarter mile buffer zone radius around the contaminated groundwater area, an area of approximately 160 acres.

The above-described area shall be closed to all new appropriations of groundwater.

A. The granting of this petition for a controlled groundwater area in no way limits any claim the State of Montana, as trustees for natural resources, may have for the damage to the groundwater aquifer.

B. The granting of this petition for a controlled groundwater area does not serve as a permit for the release of hazardous substances into the groundwater aquifer.

C. The petition for a controlled groundwater area is being granted in recognition of the existing contaminated conditions and does not relieve any person from liability for contamination to the groundwater.

D. A grant of a controlled groundwater area is not an indication of a finding that the groundwater aquifer should not be remediated or restored.

E. The Butte-Silver Bow Health Department shall send a copy of the results of the quarterly monitoring of the remedy’s effectiveness to the DNRC, Kirk Waren, Hydrologist, P.O. Box 201601, Helena, MT 59620-1601.

F. Within 30 days after the determination that the Rocker plume has been effectively mitigated to halt the threat of further migration, the Butte-Silver Bow Health Department shall submit a
petition to the Department for the removal of the controlled groundwater area designation.

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 and a party to the proceeding elects to have a written transcription prepared as part of the record of the administrative hearing for certification to the reviewing district court, the requesting party must make arrangements with the Department of Natural Resources and Conservation for the ordering and payment of the written transcript.

If no request is made, the Department will transmit a copy of the tape of the oral proceedings to the district court.

Dated this _____ day of May, 1997.

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

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Proposal for Decision was duly served upon all parties of record, first class mail, at their address or addresses this ____ day of May, 1997, as follows:

Daniel T. Dennehy MSE, Inc.
Rick Larson  
Matt Vincent  
25 W. Front Street  
Butte-Silver Bow Health Dept.  
Butte, MT 59701

Sandra Stash  
Atlantic Richfield Company  
307 East Park, Suite 400  
Anaconda, MT 59711

Mike Bishop  
US EPA Federal Building  
301 S. Park  
Helena, MT 59626

Montana Dept. Fish,  
Wildlife & Parks  
P.O. Box 200710  
Helena, MT 59620

Bob Davis  
US Geological Survey  
Federal Building  
Helena, MT 59626

Jack Lynch, Chief Executive  
Butte-Silver Bow Government  
Butte, MT 59702

County Water & Sewer District of Rocker  
Albert Molignoni, Chairman  
RR 3 Box 274  
Butte, MT 59701

Marvin Miller  
Montana Bureau of Mines and Geology  
1300 West Park St.  
Butte, MT 59701-8997

John Arrigo  
Andy Young  
MT Dept. Environmental Quality  
Water Quality Division  
1520 E. 6th Ave.  
Helena, MT 59620-0901

Candace West

P.O. Box 4078  
Butte, MT 59702

Burlington Northern Inc.  
1600 Continental Plaza  
777 Main St.  
Fort Worth, TX 76102-5384

Robert Kearney  
422 W. Virginia St.  
Butte, MT 59701

Dailey Oil Tools Inc  
Marketing Division  
P.O. Box 2866  
Conroe, TX 77305

John L. & Lori L. Hamner  
Syndicate Land Bldg-Rocker  
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Butte, MT 59702

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Butte, MT 59701

P & G Enterprises  
2 Cedar Lake  
Butte, MT 59701

Rocker Holdings  
600 S. Main  
Butte, MT 59701

Rocker Inn  
122001 W. Browns Gulch Rd  
Butte, MT 59701

Connie J. and Ray Palmer
Department of Justice  
P.O. Box 201425  
Helena, MT 59620-1425

MT Water Well Drillers Assoc.  
C/O Vickie Lautt  
602 W. 2nd St  
Hardin, MT 59034

Lindsey Drilling  
Clancy, MT 59634

OKeefe Drilling  
P.O. Box 3810  
Butte, MT 59702

Dynamite Drilling  
3015 Moulton  
Butte, MT 59701

Brazill Drilling  
P.O. Box 4286  
Butte, MT 59702

Braun Intertec Engineering  
1901 Meadowlark Lane  
P.O. Box 3026  
Butte, MT 59702-3026

RR 2 Box 226  
Butte, MT 59701

Bonnie L. Petersen  
Rt 3  
Rocker, MT 59701

Town Pump of Rocker, Inc.  
600 S. Main  
Butte, MT 59701

T.J. Reynolds, Manager  
Water Resources Regional Office  
21 N. Last Chance Gulch  
Helena, MT 59620  
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Kirk Waren  
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Cindy G. Campbell  
Legal Assistant