

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

In the matter of the amendment of) NOTICE OF DECISION ON
ARM 36.12.101, 36.12.102,) PROPOSED AMENDMENT AND
36.12.103, 36.12.115 and the) ADOPTION
adoption of New Rules I and II)
regarding water right combined)
appropriation)

To: All Concerned Persons

1. On December 26, 2013, the Department of Natural Resources and Conservation published MAR Notice No. 36-22-176 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules at page 2389 of the 2013 Montana Administrative Register, Issue Number 24.

2. The department canceled the public hearing on the proposed amendment and adoption of the above-stated rules that was scheduled for January 23, 2014, at 10:00 a.m., at the Department of Natural Resources and Conservation in the Fred Buck Conference Room (bottom floor), Water Resources Building, 1424 Ninth Avenue, Helena, Montana.

3. On January 9, 2014, the Environmental Quality Council objected pursuant to 2-4-305(9), MCA, to the above-stated proposed rulemaking amending the department's definition of "combined appropriation" in ARM 36.12.101(13).

4. The department previously proposed an amendment to the definition of "combined appropriation" in ARM 36.12.101(13) in MAR Notice No. 36-22-175. The Environmental Quality Council also objected to this proposed rule, under 2-4-305(9), MCA, by letter dated September 13, 2013. The department published a notice of decision to withdraw this proposed rulemaking on November 14, 2013.

5. Given the objection by the Environmental Quality Council on this noticed proposed rulemaking in combination with similar action on the previous MAR Notice on this same matter (MAR Notice No. 36-22-175), the department finds that any further attempt at rulemaking regarding the definition of "combined appropriation" is futile at this time and sees no option moving forward. Therefore the department shall not proceed with amending or adopting the rules as proposed but shall withdraw this proposal notice.

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

/s/ Anne Yates
Anne Yates
Rule Reviewer

Certified to the Secretary of State January 21, 2014.