

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 36.12.906 pertaining to the East ) PROPOSED AMENDMENT  
Valley Controlled Groundwater Area )

TO: All Concerned Persons

1. On July 24, 2024, at 10:00 a.m., the Department of Natural Resources and Conservation (DNRC) will hold a public hearing at the DNRC building in the Montana Conference Room, first floor, located at 1539 Eleventh Avenue, Helena, Montana, to consider the proposed amendment 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 July 8, 2024, to advise us of the nature of the accommodation that you need. Please contact Jamie Price, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601; telephone (406) 444-6615; Montana Relay 711; or e-mail DNRCOAH@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

36.12.906 EAST VALLEY CONTROLLED GROUNDWATER AREA

(1) remains the same.

(2) A map of the area within the EVCGWA described in (1) is posted at ~~http://dnrc.mt.gov/divisions/water/water-rights/controlled-ground-water-areas/east-valley~~ on the department's website.

(3) remains the same.

(4) The following controls apply in Zone 2 of EVCGWA.

(a) remains the same.

(b) New groundwater developments or changes to existing groundwater appropriations are allowed and the department may accept and process the following applications and forms pursuant to 85-2-306(2), 85-2-311, and 85-2-402, MCA, when the application or form is accompanied by documentation of prior written approval from Lewis and Clark County Board of Health, the Lewis and Clark County Water Quality Protection District, the U.S. Environmental Protection Agency, the Montana Department of Environmental Quality, and the Montana Department of Natural Resources and Conservation:

(i) remains the same.

(ii) an East Valley Controlled Groundwater Area Permit Application, Form EVCGWA 600, up to 35 GPM and 10 AF per year;

(ii) and (iii) remain the same but are renumbered (iii) and (iv).

(5) In addition to conditions necessary to satisfy the criteria in 85-2-306(2), 85-2-311, and 85-2-402, MCA, a department order authorizing a new groundwater development or change to existing groundwater appropriation must include conditions consistent with the recommendations included in the prior written approval from Lewis and Clark County Board of Health, the Lewis and Clark County Water Quality Protection District, the U.S. Environmental Protection Agency, the Montana Department of Environmental Quality, and the Montana Department of Natural Resources and Conservation. The prior written approval pursuant to (3)(b) and (4)(b) must include recommendations for:

(a) through (6) remain the same.

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

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

REASON: This amendment is necessary to correct the rule to fulfill the intent of the petition to designate the EVCGWA filed with the department by Lewis and Clark City-County Health Department on August 25, 2014. The petition stated that "exempt wells" meaning those under 85-2-306, MCA, where the appropriation is limited to 35 GPM and 10 AF could be obtained in Zone 2. The department adopted ARM 36.12.906 in 2016 which prohibited any new wells under 85-2-306, MCA, for both Zone 1 and Zone 2. This amendment clarifies that users in Zone 2 can apply for an exception to the permit requirements of 85-2-311, MCA, if the appropriation has approval from the technical advisory group and the appropriation is limited to 35 GPM and 10 AF.

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 to: Martin Balukas, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601, or e-mail [DNRCOAH@mt.gov](mailto:DNRCOAH@mt.gov), and must be received no later than 5:00 p.m. on July 24, 2024.

5. Martin Balukas, 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. Written requests may be mailed or delivered to the contact person in paragraph 2 or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

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

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

/s/ Molly Kelly  
Molly Kelly  
Rule Reviewer

/s/ Amanda Kaster  
Amanda Kaster  
Director  
Natural Resources and Conservation

Certified to the Secretary of State June 11, 2024.