

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

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
36.12.905 regarding the Horse Creek)
Controlled Groundwater Area)

TO: All Concerned Persons

1. On May 13, 2022, the Department of Natural Resources and Conservation (department) published MAR Notice No. 36-22-214 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 670 of the 2022 Montana Administrative Register, Issue Number 9.

2. The department has amended ARM 36.12.905 as proposed.

3. The department has thoroughly considered the comments received. No written comments were submitted. A summary of the oral comments from the June 21, 2022 public hearing appears below with the department's responses:

COMMENT 1: Commenters were concerned that the broad area of the SPI may not accurately reflect precipitation at the Horse Creek CGWA.

RESPONSE 1: As originally adopted, the Horse Creek CGWA relied upon the Fishtail weather station to develop the SPI (Standard Precipitation Index). The Fishtail weather station was discontinued in 2021.

Data from the Montana Climate Center and the Upper Missouri River Basin (UMRB) Drought Indicators Dashboard are relied upon by the department for precipitation and other climatic applications throughout Montana. The SPI measurement provided by the Montana Climate Center is taken at the center of Section 15, T4S, R18E, from the UMRB Drought Indicators Dashboard. The UMRB Drought Indicators Dashboard represents an accurate SPI from a reliable source for the Horse Creek CGWA.

COMMENT 2: Commenters were concerned that the use of SPI or other cumulative drought/precipitation data does not correlate with groundwater recharge within the Horse Creek CGWA.

RESPONSE 2: The current Horse Creek CGWA rule uses a three-month SPI. See ARM 36.12.905(7). Although the amendment specifies a 90-day SPI instead of a three-month SPI, it does not materially alter the duration of time used for the SPI. Concerns regarding the use of SPI or cumulative data are beyond the scope of the proposed amendment.

COMMENT 3: Monitoring aquifer conditions within the Horse Creek CGWA or monitoring flows within Horse Creek itself would provide a more accurate measurement of groundwater conditions.

RESPONSE 3: The current Horse Creek CGWA rule provides for measuring and reporting. See ARM 36.12.905(5). The amendment does not alter that aspect of the rule. Concerns regarding monitoring are beyond the scope of the proposed amendment.

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

/s/ Brian Bramblett
Brian Bramblett
Rule Reviewer

Certified to the Secretary of State on August 16, 2022.