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September 12, 2017

To: Environmental Quality Council
From: Jameson Walker, Staff Attorney
Re: EQC Administrative Rule Review September 2017

This letter constitutes a review of current rules under the authority of the Environmental Quality Council (EQC).¹

Department of Environmental Quality

MAR Notice Number: 17-391

Subject: Adoption of rules pertaining to technologically enhanced naturally occurring material (TENORM) waste.

Summary: The department states that the proposed rules implement the Montana Solid Waste Management Act (MSWMA). The department proposes to have rules covering purpose and applicability, definitions, TENORM waste management system license requirement, acceptance criteria for TENORM waste management systems, prohibitions, design and siting criteria, operation and maintenance, ground water monitoring, liquids restrictions, closure and postclosure care requirements, financial assurance, and TENORM spill reporting requirements.

Notes/Hearing: The department held a public hearing on September 7, 2017 and will hold an additional public hearing on September 20, 2017.

Department of Fish, Wildlife, and Parks

MAR Notice Number: 12-473

Subject: Notice of public hearings and extension of comment period on proposed adoption relating to dog training.

Summary: The department will hold several public meetings to consider its proposed rule relating to dog training. The department also amended its proposed new rule relating to game bird nesting areas. The proposed rule now eliminates the proposed definitions for "game

¹ The EQC is responsible for reviewing administrative rules from the following agencies and the entities that are attached to these agencies for administrative purposes: (1) the Department of Environmental Quality (DEQ); (2) the Department of Fish, Wildlife, and Parks (FWP); and (3) the Department of Natural Resources and Conservation (DNRC).

preserve," "management area," and "open fields." The proposed new rule generally provides that a person has the permission of the director to train dogs if it is not more than four dogs per day or more than four dogs per day between September 1 and March 31.

Notes/Hearing: The department will hold the following public hearings to consider the proposed rule:

October 2, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 4 Office, 4600 Giant Springs Road, Great Falls, Montana.

October 2, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 5 Office, 2300 Lake Elmo Drive, Billings, Montana.

October 2, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 6 Office, 54078 U.S. Highway 2 West, Glasgow, Montana.

October 2, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 7 Office, 352 I-94 Business Loop, Miles City, Montana.

October 10, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East 6th Avenue, Helena, Montana.

October 10, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 1 Office, 490 North Meridian Road, Kalispell, Montana.

October 10, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 2 Office, 3201 Spurgin Road, Missoula, Montana.

October 10, 2017, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 3 Office, 1400 South 19th Avenue, Bozeman, Montana.

MAR Notice Number: 12-475

Subject: Amendment and adoption of rules pertaining to recreational use on the Bitterroot River.

Summary: The Fish and Wildlife Commission proposes to add a new subsection to 12.11.610.

This subsection proposes to prohibit floating on Fridays from July 1 through September 15 from Painted Rocks Dam to Applebury Forest Service Site. The proposed rules contemplate a Bitterroot River Commercial Use Permit and a Bitterroot River Commercial Use Permit Restrictions.

Notes/Hearing: The department will hold public hearings on October 2, 3, and 10, 2017, in Missoula, Hamilton, and Butte.

Department of Natural Resources and Conservation

MAR Notice Number: 36-22-196

Subject: Amendment and repeal of rules pertaining to water right permitting.

Summary: The department proposes to amend 36.12.101 (definitions), 36.12.105 (temporary emergency appropriations), 36.12.107 (filing fee refunds), 36.12.117 (objection to application), 36.12.121 (aquifer testing requirements), 36.12.1301 (permit and change application acceptance), 36.12.1501 (permit and change application deficiency letter and termination), 36.12.1702 (permit application criteria -- physical surface water availability), and 36.12.1801 (permit and change applications -- beneficial use). The department proposes to repeal 36.12.106 (testing and monitoring). The department states that the rule restates statutory language in 85-2-369 and is not necessary.

Notes/Hearing: The Department will hold a public hearing on October 6, 2017, to consider the proposed rule notice.

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