

**Comments on Draft CGA Petition
Support Information, 6/26/2018
Rev 2, Draft Final**

1. MCA 85-2-506 (7) (a) allows for “a provision closing the controlled ground water area to further appropriation of ground water”. Can this be interpreted to apply to future withdrawals of groundwater from existing wells, not just a prohibition on new wells?
2. Neither the existing City Ordinance prohibiting new wells (for human consumption or irrigation) nor the proposed CGA would prohibit use of wells existing prior to the ordinance or the CGA. How will these existing wells be identified and addressed?
3. What is the enforcement role to be provided by EPA and DEQ (page 2)?
4. If the CGA is implemented, does the City have an obligation to continue the well ban in Ordinance 1353?
5. The details of the role of the BOH are not in this Support Information document, and need to be thoroughly understood.
6. Reasonable expectations for enforcing a ban on new wells assumes there is a detailed understanding of the presence and use of existing wells. Not comfortable with that understanding at this point.
7. It seems contradictory to conclude in the EPA five year reviews that the remedy is protective, but to be protective long-term there is a need to prohibit groundwater use in areas outside the City. This seems to fall silent on the potential existing well users, both now and in the future.
8. The Focused Feasibility Study should be considered as part of review of the proposed CGA implementation.
9. Statement on page 9 claiming limited groundwater withdrawal in the vicinity of the Site does not acknowledge the possible presence of unknown existing wells.
10. Report claims that the criterion for establishing a CGA based on the groundwater not being suitable for beneficial use is true in it's untreated state. However, a TI determination has not been made about the upper aquifer.
11. What is the basis for claiming that the existing Libby supply is adequate for future needs, especially with the possibility of heavy industrial users in the future?
12. Does the modeling account for a scenario for withdrawal of surface water from Libby Creek at the maximum permitted water rights rate?
13. The last paragraph on page 15 states that “If the CGA is approved, other actions will be taken by IP to enhance the success of the CGA.” It will be important to understand and memorialize these “other actions” in advance of approving the CGA.
14. The concerns identified by the BOH in November 2017 included four elements: technical, the groundwater resource, separability of the Superfund Sites, and enforcement issues. It appears that the separability issue has recently been resolved, and good progress continues on technical matters. The remaining two areas of concern (reference earlier document) will need resolution.

Prepared by George Jamison
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