

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 17, 1991

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED.

APRIL 18, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1991

CONFERENCE COMMITTEE REPORTED.

APRIL 23, 1991

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 24, 1991

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 24, 1991

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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Senate BILL NO. *425*
Groff *Dill* *Walters*
Walters *F. Beck* *Anderson* *Grady* *Maguire* *J. B. Crumpler*
Rayton *Walters* *Maguire* *J. B. Crumpler*
Walters *Grady*

INTRODUCED BY
A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD OF INITIAL WATER LEASES; MODIFYING THE INITIAL AND FINAL WATER LEASING STUDY REPORT PROCESS; INCREASING THE NUMBER OF DESIGNATED STREAM REACHES; EXTENDING THE TERM OF THE WATER LEASING STUDY; EXTENDING THE AUTHORITY FOR THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ACCEPT CONTRIBUTIONS TO LEASE WATER; AMENDING SECTIONS 85-2-436 AND 85-2-437, MCA, AND SECTION 11, CHAPTER 658, LAWS OF 1989; AND PROVIDING A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-436, MCA, is amended to read:

"85-2-436. (Temporary) Water leasing study. (1) The department of fish, wildlife, and parks and the department, in consultation with the water policy committee, shall conduct and coordinate a study that, at a minimum:

- (a) provides the following data for each designated stream reach and each pilot lease entered into under subsection (2):
 - (i) the length of the stream reach and how it is determined;
 - (ii) technical methods and data used to determine

- critical streamflow or volume needed to preserve fisheries;
- (iii) legal standards and technical data used to determine and substantiate the amount of water available for instream flows through leasing of existing rights;
- (iv) contractual parameters, conditions, and other steps taken to ensure that each lease in no way harms other appropriators, particularly if the stream is one that experiences natural dewatering; and
- (v) methods and technical means used to monitor use of water under each lease;
- (b) based on the data provided under subsection (1)(a), develops a complete model of a water lease and lease authorization that includes a step-by-step explanation of the process from initiation to completion.
- (2) For purposes of undertaking the study described in subsection (1) and as authorized by law, the department of fish, wildlife, and parks and the department may engage in the activities described in this subsection. For purposes of this study, this section is the exclusive means by which the department of fish, wildlife, and parks may seek to change an appropriation right to an instream flow purpose.
 - (a) The department of fish, wildlife, and parks, with the consent of the commission, may lease existing rights for the purpose of maintaining or enhancing streamflows for the benefit of fisheries in stream reaches determined eligible



1 by the board pursuant to 85-2-437.

2 (b) Upon receipt of an application for a lease from the
3 department of fish, wildlife, and parks, the department
4 shall publish notice of the application as provided in
5 85-2-307. Parties who believe they may be adversely affected
6 by the proposed lease may file an objection as provided in
7 85-2-308. A lease may not be approved until all objections
8 are resolved. After resolving all objections filed under
9 85-2-308, the department shall authorize a lease of an
10 existing right for the purpose of maintaining or enhancing
11 streamflows for the benefit of fisheries if the applicant
12 submits a complete application and meets the requirements of
13 85-2-402.

14 (c) The application for a lease authorization must
15 include specific information on the length and location of
16 the stream reach in which the streamflow must be maintained
17 or enhanced and must provide a detailed streamflow measuring
18 plan that describes the points where and the manner in which
19 the streamflow must be measured.

20 (d) The maximum quantity of water that may be leased is
21 the amount historically diverted by the lessor. However,
22 only the amount historically consumed, or a smaller amount
23 if specified by the department in the lease authorization,
24 may be used to maintain or enhance streamflows below the
25 lessor's point of diversion.

1 (e) The lease may not be issued for a term of more than
2 4 10 years, but may--be--renewed--for--up--to--10--years--per
3 renewal--if--allowed--by--law--and--upon--notification--to--the
4 department. If---this---section---terminates---without
5 reauthorization--by--the--legislature,--all--leases--and--lease
6 authorizations--expire--on--the--date--of--termination. Upon
7 receiving--notice--of--a--lease--renewal,--the--department--shall
8 notify--other--appropriators--potentially--affected--by--the--lease
9 and--shall--allow--30--days--for--submission--of--new--evidence--of
10 adverse--effects--to--other--water--rights. A--lease--authorization
11 is--not--required--for--a--renewal--unless--an--appropriator--other
12 than--an--appropriator--described--in--subsection--(2)(i)--submits
13 evidence--of--adverse--effects--to--his--rights--that--has--not--been
14 considered--previously. If--new--evidence--is--submitted, a--lease
15 authorization--must--be--obtained--according--to--the--requirements
16 of--85-2-402.

17 (f) During the term of the original lease, the
18 department may modify or revoke the lease authorization if
19 an appropriator other than an appropriator described in
20 subsection (2)(i) proves by substantial credible evidence
21 that his water right is adversely affected.

22 (g) The priority of appropriation for a lease under
23 this section is the same as the priority of appropriation of
24 the right that is leased.

25 (h) Neither a change in appropriation right nor any

1 other authorization is required for the reversion of the
2 appropriation right to the lessor's previous use.

3 (i) A person issued a water use permit with a priority
4 of appropriation after the date of filing of an application
5 for a lease authorization under this section may not object
6 to the exercise of the lease according to its terms, ~~the~~
7 ~~renewal of the lease~~, or the reversion of the appropriation
8 right to the lessor according to the lessor's previous use.

9 (j) The department of fish, wildlife, and parks shall
10 pay all costs associated with installing measuring devices
11 or providing personnel to measure streamflows according to
12 the measuring plan submitted under this section.

13 (3) (a) The department of fish, wildlife, and parks
14 shall complete and submit to the board and commission a
15 study progress report by December 1, 1991. This report must
16 include the applicable information listed in subsection (1)
17 for each lease. If the department of fish, wildlife, and
18 parks has not leased water rights under this section by
19 December 1, 1991, the department of fish, wildlife, and
20 parks shall provide compelling justification for that fact
21 in the study progress report.

22 (b) A final study report must be adopted by the board
23 and commission and submitted to the water policy committee,
24 which shall complete a the final report by December 1, ~~1990~~
25 1992. (Terminates June 30, ~~1993~~ 1995--sec. 11, Ch. 658, L.

1 1989.)"

2 **Section 2.** Section 85-2-437, MCA, is amended to read:

3 "**85-2-437. (Temporary) Board designation of eligible**
4 **stream reaches.** (1) The department of fish, wildlife, and
5 parks, with the consent of the commission, may apply to the
6 board for designation of stream reaches for which water
7 leasing to maintain or enhance streamflows pursuant to
8 85-2-436 may occur.

9 (2) The board may declare a stream reach eligible for
10 leasing pursuant to 85-2-436 only if it finds that water
11 leasing is necessary to maintain or enhance streamflows for
12 fisheries.

13 (3) The board may designate no more than five 10 stream
14 reaches in the state where water leasing pursuant to
15 85-2-436 may occur. If the department of fish, wildlife, and
16 parks determines that a water lease cannot be reasonably
17 obtained on a designated stream reach, the board may remove
18 the designation from that stream reach and designate another
19 stream reach pursuant to this section. (Terminates June 30,
20 ~~1993~~ 1995--sec. 11, Ch. 658, L. 1989.)"

21 NEW SECTION. **Section 3.** Lease validity. All leases
22 entered into prior to June 30, 1995, remain valid until the
23 expiration date of the lease.

24 **Section 4.** Section 11, Chapter 658, Laws of 1989, is
25 amended to read:

1 "Section 11. **Termination.** [This act] terminates June
2 30, ~~1993~~ 1995."

3 NEW SECTION. **Section 5.** Codification instruction.
4 [Section 3] is intended to be codified as an integral part
5 of Title 85, chapter 2, part 4, and the provisions of Title
6 85, chapter 2, part 4, apply to [section 3].

7 NEW SECTION. **Section 6.** Termination. [This act]
8 terminates June 30, 1995.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0425, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act extending the period of initial water leases; modifying the initial and final water leasing study report process; increasing the number of designated stream reaches; extending the term of the water leasing study report process; increasing the number of designated stream reaches; extending the term of the water leasing study; extending the authority for the Department of Fish, Wildlife and Parks to accept contributions to lease water.

ASSUMPTIONS:

Department of Natural Resources:


1. There will be one lease application during each year of the 1993 biennium. The application fee is \$50.
2. The cost of processing a change application is \$300.
3. All applications for changes for instream flow leases will have objections and will go to contested-case hearings.
4. The cost of attempting to settle objections is \$500.
5. The cost of a contested-case hearing is \$2,000.

Department of Fish, Wildlife & Parks:

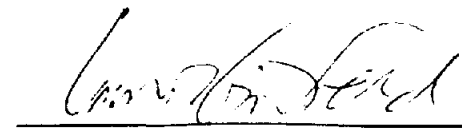
6. Existing staff will be utilized for preparation of the interim 1991 study report and final 1992 study report.
7. Study funds are already contained in the department's budget for the continuation of the water leasing study during FY92 and FY93.
8. The five additional streams allowed will not be studied until FY94 and FY95.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



LORENTS GROSFIELD, PRIMARY SPONSOR DATE
FEB 25 91
Fiscal Note for SB0425, as introduced SB 425

FISCAL IMPACT:

Department of Natural Resources:

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Expenses	0	2,800	300	0	2,800	300
<u>Funding:</u>						
General Fund	0	2,750	2,750	0	2,750	2,750
State Special	0	50	50	0	50	50
Total	0	2,800	2,800	0	2,800	2,800
<u>Revenues:</u>						
Water Rights SSRF			50			50
Impact to General Fund			(2,750)			(2,750)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Department of Fish Wildlife & Parks:

Funding will be required for the five additional streams allowed under this legislation. It is estimated that \$30,000 will be needed each year of the 1995 biennium.

APPROVED BY COMM. ON NATURAL RESOURCES

1 *Senate* BILL NO. *425*
 2 INTRODUCED BY *Grosfield Dilbert*
 3 *Yellowtail T-Beck Angerson Grosfield*
 4 *Bangston* A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD OF
 5 *back Foster Brady* INITIAL WATER LEASES; MODIFYING THE INITIAL AND FINAL WATER

6 LEASING STUDY REPORT PROCESS; INCREASING THE NUMBER OF
 7 DESIGNATED STREAM REACHES; EXTENDING THE TERM OF THE WATER
 8 LEASING STUDY; EXTENDING THE AUTHORITY FOR THE DEPARTMENT OF
 9 FISH, WILDLIFE, AND PARKS TO ACCEPT CONTRIBUTIONS TO LEASE
 10 WATER; AMENDING SECTIONS 85-2-436 AND 85-2-437, MCA, AND
 11 SECTION 11, CHAPTER 658, LAWS OF 1989; AND PROVIDING A
 12 TERMINATION DATE."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 17 department of fish, wildlife, and parks and the department,
 18 in consultation with the water policy committee, shall
 19 conduct and coordinate a study that, at a minimum:

20 (a) provides the following data for each designated
 21 stream reach and each pilot lease entered into under
 22 subsection (2):

23 (i) the length of the stream reach and how it is
 24 determined;

25 (ii) technical methods and data used to determine

1 critical streamflow or volume needed to preserve fisheries;

2 (iii) legal standards and technical data used to
 3 determine and substantiate the amount of water available for
 4 instream flows through leasing of existing rights;

5 (iv) contractual parameters, conditions, and other steps
 6 taken to ensure that each lease in no way harms other
 7 appropriators, particularly if the stream is one that
 8 experiences natural dewatering; and

9 (v) methods and technical means used to monitor use of
 10 water under each lease;

11 (b) based on the data provided under subsection (1)(a),
 12 develops a complete model of a water lease and lease
 13 authorization that includes a step-by-step explanation of
 14 the process from initiation to completion.

15 (2) For purposes of undertaking the study described in
 16 subsection (1) and as authorized by law, the department of
 17 fish, wildlife, and parks and the department may engage in
 18 the activities described in this subsection. For purposes of
 19 this study, this section is the exclusive means by which the
 20 department of fish, wildlife, and parks may seek to change
 21 an appropriation right to an instream flow purpose.

22 (a) The department of fish, wildlife, and parks, with
 23 the consent of the commission, may lease existing rights for
 24 the purpose of maintaining or enhancing streamflows for the
 25 benefit of fisheries in stream reaches determined eligible



1 by the board pursuant to 85-2-437.

2 (b) Upon receipt of an application for a lease from the
3 department of fish, wildlife, and parks, the department
4 shall publish notice of the application as provided in
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7 85-2-308. A lease may not be approved until all objections
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15 include specific information on the length and location of
16 the stream reach in which the streamflow must be maintained
17 or enhanced and must provide a detailed streamflow measuring
18 plan that describes the points where and the manner in which
19 the streamflow must be measured.

20 (d) The maximum quantity of water that may be leased is
21 the amount historically diverted by the lessor. However,
22 only the amount historically consumed, or a smaller amount
23 if specified by the department in the lease authorization,
24 may be used to maintain or enhance streamflows below the
25 lessor's point of diversion.

1 (e) The lease may not be issued for a term of more than
2 4 10 years, but may--be--renewed--for-up-to-10-years-per
3 renewal, if allowed by law--and--upon--notification--to--the
4 department: If----this----section----terminates----without
5 reauthorization by the legislature,--all--leases--and--lease
6 authorizations--expire--on--the--date--of--termination. Upon
7 receiving notice of a lease renewal,--the--department--shall
8 notify other appropriators potentially affected by the lease
9 and--shall--allow--30--days--for--submission--of--new--evidence--of
10 adverse effects to other water rights. A lease authorization
11 is not required for a renewal unless an appropriator--other
12 than--an--appropriator--described--in--subsection--(2)(i)--submits
13 evidence of adverse effects to his rights that has not--been
14 considered previously. If new evidence is submitted, a lease
15 authorization must be obtained according to the requirements
16 of 85-2-402.

17 (f) During the term of the original lease, the
18 department may modify or revoke the lease authorization if
19 an appropriator other than an appropriator described in
20 subsection (2)(i) proves by substantial credible evidence
21 that his water right is adversely affected.

22 (g) The priority of appropriation for a lease under
23 this section is the same as the priority of appropriation of
24 the right that is leased.

25 (h) Neither a change in appropriation right nor any

1 other authorization is required for the reversion of the
2 appropriation right to the lessor's previous use.

3 (i) A person issued a water use permit with a priority
4 of appropriation after the date of filing of an application
5 for a lease authorization under this section may not object
6 to the exercise of the lease according to its terms, ~~the~~
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8 right to the lessor according to the lessor's previous use.

9 (j) The department of fish, wildlife, and parks shall
10 pay all costs associated with installing measuring devices
11 or providing personnel to measure streamflows according to
12 the measuring plan submitted under this section.

13 (3) (a) The department of fish, wildlife, and parks
14 shall complete and submit to the board and commission a
15 study progress report by December 1, 1991. This report must
16 include the applicable information listed in subsection (1)
17 for each lease. If the department of fish, wildlife, and
18 parks has not leased water rights under this section by
19 December 1, 1991, the department of fish, wildlife, and
20 parks shall provide compelling justification for that fact
21 in the study progress report.

22 (b) A final study report must be adopted by the board
23 and commission and submitted to the water policy committee,
24 which shall complete a the final report by December 1, 1990
25 1992. (Terminates June 30, 1993 1995--sec. 11, Ch. 658, L.

1 1989.)"

2 **Section 2.** Section 85-2-437, MCA, is amended to read:

3 "85-2-437. (Temporary) Board designation of eligible
4 stream reaches. (1) The department of fish, wildlife, and
5 parks, with the consent of the commission, may apply to the
6 board for designation of stream reaches for which water
7 leasing to maintain or enhance streamflows pursuant to
8 85-2-436 may occur.

9 (2) The board may declare a stream reach eligible for
10 leasing pursuant to 85-2-436 only if it finds that water
11 leasing is necessary to maintain or enhance streamflows for
12 fisheries.

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14 reaches in the state where water leasing pursuant to
15 85-2-436 may occur. If the department of fish, wildlife, and
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17 obtained on a designated stream reach, the board may remove
18 the designation from that stream reach and designate another
19 stream reach pursuant to this section. (Terminates June 30,
20 1993 1995--sec. 11, Ch. 658, L. 1989.)"

21 **NEW SECTION. Section 3.** Lease validity. All leases
22 entered into prior to June 30, 1995, remain valid until the
23 expiration date of the lease.

24 **Section 4.** Section 11, Chapter 658, Laws of 1989, is
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1 "Section 11. **Termination.** [This act] terminates June
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3 NEW SECTION. **Section 5.** Codification instruction.
4 [Section 3] is intended to be codified as an integral part
5 of Title 85, chapter 2, part 4, and the provisions of Title
6 85, chapter 2, part 4, apply to [section 3].

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8 terminates June 30, 1995.

-End-

1
 2 INTRODUCTION BY *Senators* *Groff* *Bill* *Willis* BILL NO. *425*
 3 *Yellowtail* *T. Beck* *Angus* *Conrad* *Burnett* *Walters*
 4 *Baughman* *Smith* *Walters* *Maguire* *St. J. D. Brainerd*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD OF
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19 stream reach pursuant to this section. (Terminates June 30,
20 1993 1995--sec. 11, Ch. 658, L. 1989.)"

21 **NEW SECTION. Section 3. Lease validity.** All leases
22 entered into prior to June 30, 1995, remain valid until the
23 expiration date of the lease.

24 **Section 4.** Section 11, Chapter 658, Laws of 1989, is
25 amended to read:

1 "Section 11. Termination. [This act] terminates June
2 30, ~~1993~~ 1995."

3 NEW SECTION. **Section 5.** Codification instruction.
4 [Section 3] is intended to be codified as an integral part
5 of Title 85, chapter 2, part 4, and the provisions of Title
6 85, chapter 2, part 4, apply to [section 3].

7 NEW SECTION. **Section 6.** Termination. [This act]
8 terminates June 30, 1995.

-End-

HOUSE STANDING COMMITTEE REPORT

March 23, 1991
Page 2 of 3

March 23, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 425 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Raney
Bob Raney, Chairman

CARRIED BY: REP. GILBERT

And, that such amendments read:

1. Title, line 10.

Following: ";"

Insert: "PROVIDING AN APPROPRIATION;"

2. Title, line 11.

Following: "PROVIDING"

Insert: "AN IMMEDIATE EFFECTIVE DATE AND"

3. Page 4, line 2.

Following: "years"

Insert: ", but it may be renewed once for up to 10 years, except that a lease of water made available from the development of a water conservation or storage project is restricted to a term of not more than 20 years"

4. Page 4, line 16.

Following: "r"

Insert: "Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 30 days for submission of new evidence of adverse effects to other water rights. A lease authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection (2) (i) submits evidence of adverse effects to his rights that has not been considered previously. If new evidence is submitted, a lease authorization must be obtained according to the requirements of 85-2-402."

5. Page 5, line 10.

Strike: "measuring"

6. Page 5, line 14.

Following: "board"

Strike: "and"

Insert: ", "

Following: "commission"

Strike: "a"

Insert: ", and water policy committee an annual"

7. Page 5, line 15.

Following: "December 1"

Strike: ", 1991"

Insert: "of each year"

8. Page 5, line 19.

Following: "December 1"

Strike: ", 1991"

Insert: "of any year"

9. Page 5, line 25.

Strike: "1992"

Insert: "1998"

Following: "."

Insert:

"(4) This section does not create the right for a person to bring suit to compel the renewal of a lease that has expired."

Strike: "1995"

Insert: "1999"

10. Page 6, line 20.

Page 7, line 2.

Strike: "1995"

Insert: "1999"

11. Page 6, line 22.

Page 7, line 8.

Strike: "1995"

Insert: "1999"

12. Page 7.

Following: line 2

Insert:

"NEW SECTION. Section 5. Appropriation. There is appropriated for the biennium ending June 30, 1993, to the department of fish, wildlife, and parks \$22,500 from the federal special revenue fund and \$7,500 from the state special revenue fund provided for in 87-1-601(1) to lease existing water rights as provided in 85-2-436(2) (a)."
Renumber: subsequent sections

SB 425
HOUSE

March 23, 1991
Page 3 of 3

13. Page 7.

Following: line 8

Insert:

"NEW SECTION Section 8. Effective date. [This act] is
effective on passage and approval."

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 425
Representative Ream

April 5, 1991 1:26 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 425 (third reading copy -- blue).

Signed: Bob Ream
Representative Ream

And, that such amendments to Senate Bill 425 read as follows:

1. Page 6, line 13.
Following: "designate"
Strike: "no more than ~~five~~ 10"

ADOPT

REJECT

HOUSE
SB 425

SENATE BILL NO. 425

INTRODUCED BY GROSFIELD, GILBERT, WILLIAMS, YELLOWTAIL,
T. BECK, ANDERSON, SVRCEK, BURNETT, KEATING, BENGTSON,
BRUSKI, VAN VALKENBURG, MAZUREK, TVEIT, J. DEBRUYCKER,
ZOOK, FOSTER, GRADY, REA

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD OF
INITIAL WATER LEASES; MODIFYING THE INITIAL AND FINAL WATER
LEASING STUDY REPORT PROCESS; INCREASING THE NUMBER OF
DESIGNATED STREAM REACHES; EXTENDING THE TERM OF THE WATER
LEASING STUDY; EXTENDING THE AUTHORITY FOR THE DEPARTMENT OF
FISH, WILDLIFE, AND PARKS TO ACCEPT CONTRIBUTIONS TO LEASE
WATER; PROVIDING AN APPROPRIATION; AMENDING SECTIONS
85-2-436 AND 85-2-437, MCA, AND SECTION 11, CHAPTER 658,
LAWS OF 1989; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-436, MCA, is amended to read:

"85-2-436. (Temporary) Water leasing study. (1) The
department of fish, wildlife, and parks and the department,
in consultation with the water policy committee, shall
conduct and coordinate a study that, at a minimum:

(a) provides the following data for each designated
stream reach and each pilot lease entered into under

subsection (2):

(i) the length of the stream reach and how it is
determined;

(ii) technical methods and data used to determine
critical streamflow or volume needed to preserve fisheries;

(iii) legal standards and technical data used to
determine and substantiate the amount of water available for
instream flows through leasing of existing rights;

(iv) contractual parameters, conditions, and other steps
taken to ensure that each lease in no way harms other
appropriators, particularly if the stream is one that
experiences natural dewatering; and

(v) methods and technical means used to monitor use of
water under each lease;

(b) based on the data provided under subsection (1)(a),
develops a complete model of a water lease and lease
authorization that includes a step-by-step explanation of
the process from initiation to completion.

(2) For purposes of undertaking the study described in
subsection (1) and as authorized by law, the department of
fish, wildlife, and parks and the department may engage in
the activities described in this subsection. For purposes of
this study, this section is the exclusive means by which the
department of fish, wildlife, and parks may seek to change
an appropriation right to an instream flow purpose.

1 (a) The department of fish, wildlife, and parks, with
2 the consent of the commission, may lease existing rights for
3 the purpose of maintaining or enhancing streamflows for the
4 benefit of fisheries in stream reaches determined eligible
5 by the board pursuant to 85-2-437.

6 (b) Upon receipt of an application for a lease from the
7 department of fish, wildlife, and parks, the department
8 shall publish notice of the application as provided in
9 85-2-307. Parties who believe they may be adversely affected
10 by the proposed lease may file an objection as provided in
11 85-2-308. A lease may not be approved until all objections
12 are resolved. After resolving all objections filed under
13 85-2-308, the department shall authorize a lease of an
14 existing right for the purpose of maintaining or enhancing
15 streamflows for the benefit of fisheries if the applicant
16 submits a complete application and meets the requirements of
17 85-2-402.

18 (c) The application for a lease authorization must
19 include specific information on the length and location of
20 the stream reach in which the streamflow must be maintained
21 or enhanced and must provide a detailed streamflow measuring
22 plan that describes the points where and the manner in which
23 the streamflow must be measured.

24 (d) The maximum quantity of water that may be leased is
25 the amount historically diverted by the lessor. However,

1 only the amount historically consumed, or a smaller amount
2 if specified by the department in the lease authorization,
3 may be used to maintain or enhance streamflows below the
4 lessor's point of diversion.

5 (e) The lease may not be issued for a term of more than
6 4 10 years, BUT IT MAY BE RENEWED ONCE FOR UP TO 10 YEARS,
7 EXCEPT THAT A LEASE OF WATER MADE AVAILABLE FROM THE
8 DEVELOPMENT OF A WATER CONSERVATION OR STORAGE PROJECT IS
9 RESTRICTED TO A TERM OF NOT MORE THAN 20 YEARS. but may be
10 renewed-for-up-to-10-years-per-renewal, if--allowed--by--law
11 and--upon--notification--to--the-department; if-this-section
12 terminates-without-reauthorization-by-the--legislature,--all
13 leases--and--lease--authorizations--expire--on--the--date-of
14 termination; Upon-receiving-notice-of-a-lease--renewal,--the
15 department--shall--notify--other--appropriators--potentially
16 affected-by-the-lease-and-shall-allow-30-days-for-submission
17 of--new-evidence-of-adverse-effects-to-other-water-rights; A
18 lease-authorization-is-not-required-for-a-renewal-unless--an
19 appropriator---other---than--an--appropriator--described--in
20 subsection-(2)(i)-submits-evidence-of-adverse-effects-to-his
21 rights-that-has--not--been--considered--previously;--if--new
22 evidence---is--submitted,--a--lease--authorization--must--be
23 obtained-according-to-the--requirements--of--85-2-402; UPON
24 RECEIVING NOTICE OF A LEASE RENEWAL, THE DEPARTMENT SHALL
25 NOTIFY OTHER APPROPRIATORS POTENTIALLY AFFECTED BY THE LEASE

1 AND SHALL ALLOW 30 DAYS FOR SUBMISSION OF NEW EVIDENCE OF
 2 ADVERSE EFFECTS TO OTHER WATER RIGHTS. A LEASE AUTHORIZATION
 3 IS NOT REQUIRED FOR A RENEWAL UNLESS AN APPROPRIATOR OTHER
 4 THAN AN APPROPRIATOR DESCRIBED IN SUBSECTION (2)(I) SUBMITS
 5 EVIDENCE OF ADVERSE EFFECTS TO HIS RIGHTS THAT HAS NOT BEEN
 6 CONSIDERED PREVIOUSLY. IF NEW EVIDENCE IS SUBMITTED, A LEASE
 7 AUTHORIZATION MUST BE OBTAINED ACCORDING TO THE REQUIREMENTS
 8 OF 85-2-402.

9 (f) During the term of the original lease, the
 10 department may modify or revoke the lease authorization if
 11 an appropriator other than an appropriator described in
 12 subsection (2)(i) proves by substantial credible evidence
 13 that his water right is adversely affected.

14 (g) The priority of appropriation for a lease under
 15 this section is the same as the priority of appropriation of
 16 the right that is leased.

17 (h) Neither a change in appropriation right nor any
 18 other authorization is required for the reversion of the
 19 appropriation right to the lessor's previous use.

20 (i) A person issued a water use permit with a priority
 21 of appropriation after the date of filing of an application
 22 for a lease authorization under this section may not object
 23 to the exercise of the lease according to its terms, ~~the~~
 24 ~~renewal--of-the-lease,~~ or the reversion of the appropriation
 25 right to the lessor according to the lessor's previous use.

1 (j) The department of fish, wildlife, and parks shall
 2 pay all costs associated with installing measuring devices
 3 or providing personnel to measure streamflows according to
 4 the measuring plan submitted under this section.

5 (3) (a) The department of fish, wildlife, and parks
 6 shall complete and submit to the board and, commission a,
 7 AND WATER POLICY COMMITTEE AN ANNUAL study progress report
 8 by December 17--1991 OF EACH YEAR. This report must include
 9 the applicable information listed in subsection (1) for each
 10 lease. If the department of fish, wildlife, and parks has
 11 not leased water rights under this section by December 17
 12 1991 OF ANY YEAR, the department of fish, wildlife, and
 13 parks shall provide compelling justification for that fact
 14 in the study progress report.

15 (b) A final study report must be adopted by the board
 16 and commission and submitted to the water policy committee,
 17 which shall complete a the final report by December 1, 1990
 18 1992 1998.

19 (4) THIS SECTION DOES NOT CREATE THE RIGHT FOR A PERSON
 20 TO BRING SUIT TO COMPEL THE RENEWAL OF A LEASE THAT HAS
 21 EXPIRED. (Terminates June 30, 1993 ~~1995 1999~~--sec. 11, Ch.
 22 658, L. 1989.)"

23 **Section 2.** Section 85-2-437, MCA, is amended to read:

24 "85-2-437. (Temporary) Board designation of eligible
 25 stream reaches. (1) The department of fish, wildlife, and

1 parks, with the consent of the commission, may apply to the
2 board for designation of stream reaches for which water
3 leasing to maintain or enhance streamflows pursuant to
4 85-2-436 may occur.

5 (2) The board may declare a stream reach eligible for
6 leasing pursuant to 85-2-436 only if it finds that water
7 leasing is necessary to maintain or enhance streamflows for
8 fisheries.

9 (3) The board may designate ~~no more than five~~ 10 stream
10 reaches in the state where water leasing pursuant to
11 85-2-436 may occur. If the department of fish, wildlife, and
12 parks determines that a water lease cannot be reasonably
13 obtained on a designated stream reach, the board may remove
14 the designation from that stream reach and designate another
15 stream reach pursuant to this section. (Terminates June 30,
16 ~~1993~~ 1995 ~~1999~~--sec. 11, Ch. 658, L. 1989.)"

17 NEW SECTION. Section 3. Lease validity. All leases
18 entered into prior to June 30, ~~1995~~ 1999, remain valid until
19 the expiration date of the lease.

20 **Section 4.** Section 11, Chapter 658, Laws of 1989, is
21 amended to read:

22 "Section 11. **Termination.** [This act] terminates June
23 30, ~~1993~~ 1995 1999."

24 NEW SECTION. SECTION 5. APPROPRIATION. THERE IS
25 APPROPRIATED FOR THE BIENNIUM ENDING JUNE 30, 1993, TO THE

1 DEPARTMENT OF FISH, WILDLIFE, AND PARKS \$22,500 FROM THE
2 FEDERAL SPECIAL REVENUE FUND AND \$7,500 FROM THE STATE
3 SPECIAL REVENUE FUND PROVIDED FOR IN 87-1-601(1) TO LEASE
4 EXISTING WATER RIGHTS AS PROVIDED IN 85-2-436(2)(A).

5 NEW SECTION. Section 6. Codification instruction.
6 [Section 3] is intended to be codified as an integral part
7 of Title 85, chapter 2, part 4, and the provisions of Title
8 85, chapter 2, part 4, apply to [section 3].

9 NEW SECTION. Section 7. Termination. [This act]
10 terminates June 30, ~~1995~~ 1999.

11 NEW SECTION. SECTION 8. EFFECTIVE DATE. [THIS ACT] IS
12 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

Conference Committee
of Senate Bill No. 425
Report No. 1, April 20, 1991

Page of

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 425, met and considered the amendments in:

- (1) the House Natural Resources Standing Committee Report dated March 23, 1991; and
- (2) Representative Ream's House Committee of the Whole Amendment dated April 5, 1991.

We recommend that the House Committee of the Whole Amendment dated April 5, 1991 be rejected in its entirety, thereby amending Senate Bill No. 425 (reference copy - salmon) as follows:

1. Page 7, line 9.
Following: "~~10~~"
Insert: "no more than 10"

And that this Conference Committee report be adopted.

For the Senate:

Wm Yellowtail
~~Chair~~; Sen. Yellowtail
Beet Weeding
Chair, Sen. Weeding
Sen. Grosfield
Sen. Grosfield

For the House:

Sen. Brooke
Chair, Rep. Brooke
Rep. Swygood
Rep. Swygood
Rep. Toole
Rep. Toole

4-22-91
Ad. Coord.
SB 4-22
Sec. of Senate

ADOPT

REJECT

CCR #1
SB 425
850947CC.Sji

SENATE BILL NO. 425

INTRODUCED BY GROSFIELD, GILBERT, WILLIAMS, YELLOWTAIL, T. BECK, ANDERSON, SVRCEK, BURNETT, KEATING, BENGTSON, BRUSKI, VAN VALKENBURG, MAZUREK, TVEIT, J. DEBRUYCKER, ZOOK, FOSTER, GRADY, REA

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD OF INITIAL WATER LEASES; MODIFYING THE INITIAL AND FINAL WATER LEASING STUDY REPORT PROCESS; INCREASING THE NUMBER OF DESIGNATED STREAM REACHES; EXTENDING THE TERM OF THE WATER LEASING STUDY; EXTENDING THE AUTHORITY FOR THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ACCEPT CONTRIBUTIONS TO LEASE WATER; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 85-2-436 AND 85-2-437, MCA, AND SECTION 11, CHAPTER 658, LAWS OF 1989; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-436, MCA, is amended to read:

"85-2-436. (Temporary) Water leasing study. (1) The department of fish, wildlife, and parks and the department, in consultation with the water policy committee, shall conduct and coordinate a study that, at a minimum:

(a) provides the following data for each designated stream reach and each pilot lease entered into under

subsection (2):

(i) the length of the stream reach and how it is determined;

(ii) technical methods and data used to determine critical streamflow or volume needed to preserve fisheries;

(iii) legal standards and technical data used to determine and substantiate the amount of water available for instream flows through leasing of existing rights;

(iv) contractual parameters, conditions, and other steps taken to ensure that each lease in no way harms other appropriators, particularly if the stream is one that experiences natural dewatering; and

(v) methods and technical means used to monitor use of water under each lease;

(b) based on the data provided under subsection (1)(a), develops a complete model of a water lease and lease authorization that includes a step-by-step explanation of the process from initiation to completion.

(2) For purposes of undertaking the study described in subsection (1) and as authorized by law, the department of fish, wildlife, and parks and the department may engage in the activities described in this subsection. For purposes of this study, this section is the exclusive means by which the department of fish, wildlife, and parks may seek to change an appropriation right to an instream flow purpose.



1 (a) The department of fish, wildlife, and parks, with
2 the consent of the commission, may lease existing rights for
3 the purpose of maintaining or enhancing streamflows for the
4 benefit of fisheries in stream reaches determined eligible
5 by the board pursuant to 85-2-437.

6 (b) Upon receipt of an application for a lease from the
7 department of fish, wildlife, and parks, the department
8 shall publish notice of the application as provided in
9 85-2-307. Parties who believe they may be adversely affected
10 by the proposed lease may file an objection as provided in
11 85-2-308. A lease may not be approved until all objections
12 are resolved. After resolving all objections filed under
13 85-2-308, the department shall authorize a lease of an
14 existing right for the purpose of maintaining or enhancing
15 streamflows for the benefit of fisheries if the applicant
16 submits a complete application and meets the requirements of
17 85-2-402.

18 (c) The application for a lease authorization must
19 include specific information on the length and location of
20 the stream reach in which the streamflow must be maintained
21 or enhanced and must provide a detailed streamflow measuring
22 plan that describes the points where and the manner in which
23 the streamflow must be measured.

24 (d) The maximum quantity of water that may be leased is
25 the amount historically diverted by the lessor. However,

1 only the amount historically consumed, or a smaller amount
2 if specified by the department in the lease authorization,
3 may be used to maintain or enhance streamflows below the
4 lessor's point of diversion.

5 (e) The lease may not be issued for a term of more than
6 4 10 years, BUT IT MAY BE RENEWED ONCE FOR UP TO 10 YEARS,
7 EXCEPT THAT A LEASE OF WATER MADE AVAILABLE FROM THE
8 DEVELOPMENT OF A WATER CONSERVATION OR STORAGE PROJECT IS
9 RESTRICTED TO A TERM OF NOT MORE THAN 20 YEARS. but may be
10 renewed for up to 10 years per renewal, if allowed by law
11 and upon notification to the department, if this section
12 terminates without reauthorization by the legislature, all
13 leases and lease authorizations expire on the date of
14 termination. Upon receiving notice of a lease renewal, the
15 department shall notify other appropriators potentially
16 affected by the lease and shall allow 30 days for submission
17 of new evidence of adverse effects to other water rights. A
18 lease authorization is not required for a renewal unless an
19 appropriator other than an appropriator described in
20 subsection (2)(i) submits evidence of adverse effects to his
21 rights that has not been considered previously. If new
22 evidence is submitted, a lease authorization must be
23 obtained according to the requirements of 85-2-402. UPON
24 RECEIVING NOTICE OF A LEASE RENEWAL, THE DEPARTMENT SHALL
25 NOTIFY OTHER APPROPRIATORS POTENTIALLY AFFECTED BY THE LEASE

AND SHALL ALLOW 30 DAYS FOR SUBMISSION OF NEW EVIDENCE OF ADVERSE EFFECTS TO OTHER WATER RIGHTS. A LEASE AUTHORIZATION IS NOT REQUIRED FOR A RENEWAL UNLESS AN APPROPRIATOR OTHER THAN AN APPROPRIATOR DESCRIBED IN SUBSECTION (2)(I) SUBMITS EVIDENCE OF ADVERSE EFFECTS TO HIS RIGHTS THAT HAS NOT BEEN CONSIDERED PREVIOUSLY. IF NEW EVIDENCE IS SUBMITTED, A LEASE AUTHORIZATION MUST BE OBTAINED ACCORDING TO THE REQUIREMENTS OF 85-2-402.

(f) During the term of the ~~original~~ lease, the department may modify or revoke the lease authorization if an appropriator other than an appropriator described in subsection (2)(i) proves by substantial credible evidence that his water right is adversely affected.

(g) The priority of appropriation for a lease under this section is the same as the priority of appropriation of the right that is leased.

(h) Neither a change in appropriation right nor any other authorization is required for the reversion of the appropriation right to the lessor's previous use.

(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a lease authorization under this section may not object to the exercise of the lease according to its terms~~7--the renewal--of-the-lease7~~ or the reversion of the appropriation right to the lessor according to the lessor's previous use.

(j) The department of fish, wildlife, and parks shall pay all costs associated with installing measuring devices or providing personnel to measure streamflows according to the measuring plan submitted under this section.

(3) (a) The department of fish, wildlife, and parks shall complete and submit to the board and, commission a, AND WATER POLICY COMMITTEE AN ANNUAL study progress report by December 17, ~~1991~~ OF EACH YEAR. This report must include the applicable information listed in subsection (1) for each lease. If the department of fish, wildlife, and parks has not leased water rights under this section by December 17 ~~1991~~ OF ANY YEAR, the department of fish, wildlife, and parks shall provide compelling justification for that fact in the study progress report.

(b) A final study report must be adopted by the board and commission and submitted to the water policy committee, which shall complete a the final report by December 1, ~~1990~~ 1992 1998.

(4) THIS SECTION DOES NOT CREATE THE RIGHT FOR A PERSON TO BRING SUIT TO COMPEL THE RENEWAL OF A LEASE THAT HAS EXPIRED. (Terminates June 30, ~~1993~~ 1995 1999--sec. 11, Ch. 658, L. 1989.)"

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"85-2-437. (Temporary) Board designation of eligible stream reaches. (1) The department of fish, wildlife, and

1 parks, with the consent of the commission, may apply to the
2 board for designation of stream reaches for which water
3 leasing to maintain or enhance streamflows pursuant to
4 85-2-436 may occur.

5 (2) The board may declare a stream reach eligible for
6 leasing pursuant to 85-2-436 only if it finds that water
7 leasing is necessary to maintain or enhance streamflows for
8 fisheries.

9 (3) The board may designate ~~no more than five~~ 10 NO
10 MORE THAN 10 stream reaches in the state where water leasing
11 pursuant to 85-2-436 may occur. If the department of fish,
12 wildlife, and parks determines that a water lease cannot be
13 reasonably obtained on a designated stream reach, the board
14 may remove the designation from that stream reach and
15 designate another stream reach pursuant to this section.
16 (Terminates June 30, ~~1993~~ 1995 1999--sec. 11, Ch. 658, L.
17 1989.)"

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19 entered into prior to June 30, 1995 1999, remain valid until
20 the expiration date of the lease.

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13 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

SENATE BILL NO. 425

INTRODUCED BY GROSFIELD, GILBERT, WILLIAMS, YELLOWTAIL,
T. BECK, ANDERSON, SVRCEK, BURNETT, KEATING, BENGTSON,
BRUSKI, VAN VALKENBURG, MAZUREK, TVEIT, J. DEBRUYCKER,
ZOOK, FOSTER, GRADY, REA

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INITIAL WATER LEASES; MODIFYING THE INITIAL AND FINAL WATER
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DESIGNATED STREAM REACHES; EXTENDING THE TERM OF THE WATER
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WATER; PROVIDING AN APPROPRIATION; AMENDING SECTIONS
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stream reach and each pilot lease entered into under

subsection (2):

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(ii) technical methods and data used to determine
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(b) based on the data provided under subsection (1)(a),
develops a complete model of a water lease and lease
authorization that includes a step-by-step explanation of
the process from initiation to completion.

(2) For purposes of undertaking the study described in
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the activities described in this subsection. For purposes of
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department of fish, wildlife, and parks may seek to change
an appropriation right to an instream flow purpose.

1 (a) The department of fish, wildlife, and parks, with
2 the consent of the commission, may lease existing rights for
3 the purpose of maintaining or enhancing streamflows for the
4 benefit of fisheries in stream reaches determined eligible
5 by the board pursuant to 85-2-437.

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7 department of fish, wildlife, and parks, the department
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9 85-2-307. Parties who believe they may be adversely affected
10 by the proposed lease may file an objection as provided in
11 85-2-308. A lease may not be approved until all objections
12 are resolved. After resolving all objections filed under
13 85-2-308, the department shall authorize a lease of an
14 existing right for the purpose of maintaining or enhancing
15 streamflows for the benefit of fisheries if the applicant
16 submits a complete application and meets the requirements of
17 85-2-402.

18 (c) The application for a lease authorization must
19 include specific information on the length and location of
20 the stream reach in which the streamflow must be maintained
21 or enhanced and must provide a detailed streamflow measuring
22 plan that describes the points where and the manner in which
23 the streamflow must be measured.

24 (d) The maximum quantity of water that may be leased is
25 the amount historically diverted by the lessor. However,

1 only the amount historically consumed, or a smaller amount
2 if specified by the department in the lease authorization,
3 may be used to maintain or enhance streamflows below the
4 lessor's point of diversion.

5 (e) The lease may not be issued for a term of more than
6 4 10 years, BUT IT MAY BE RENEWED ONCE FOR UP TO 10 YEARS,
7 EXCEPT THAT A LEASE OF WATER MADE AVAILABLE FROM THE
8 DEVELOPMENT OF A WATER CONSERVATION OR STORAGE PROJECT IS
9 RESTRICTED TO A TERM OF NOT MORE THAN 20 YEARS. but may be
10 renewed for up to 10 years per renewal, if allowed by law
11 and upon notification to the department; if this section
12 terminates without reauthorization by the legislature, all
13 leases and lease authorizations expire on the date of
14 termination. Upon receiving notice of a lease renewal, the
15 department shall notify other appropriators potentially
16 affected by the lease and shall allow 30 days for submission
17 of new evidence of adverse effects to other water rights. A
18 lease authorization is not required for a renewal unless an
19 appropriator other than an appropriator described in
20 subsection (2)(i) submits evidence of adverse effects to his
21 rights that has not been considered previously; if new
22 evidence is submitted, a lease authorization must be
23 obtained according to the requirements of 85-2-402. UPON
24 RECEIVING NOTICE OF A LEASE RENEWAL, THE DEPARTMENT SHALL
25 NOTIFY OTHER APPROPRIATORS POTENTIALLY AFFECTED BY THE LEASE

1 AND SHALL ALLOW 30 DAYS FOR SUBMISSION OF NEW EVIDENCE OF
 2 ADVERSE EFFECTS TO OTHER WATER RIGHTS. A LEASE AUTHORIZATION
 3 IS NOT REQUIRED FOR A RENEWAL UNLESS AN APPROPRIATOR OTHER
 4 THAN AN APPROPRIATOR DESCRIBED IN SUBSECTION (2)(I) SUBMITS
 5 EVIDENCE OF ADVERSE EFFECTS TO HIS RIGHTS THAT HAS NOT BEEN
 6 CONSIDERED PREVIOUSLY. IF NEW EVIDENCE IS SUBMITTED, A LEASE
 7 AUTHORIZATION MUST BE OBTAINED ACCORDING TO THE REQUIREMENTS
 8 OF 85-2-402.

9 (f) During the term of the ~~original~~ lease, the
 10 department may modify or revoke the lease authorization if
 11 an appropriator other than an appropriator described in
 12 subsection (2)(i) proves by substantial credible evidence
 13 that his water right is adversely affected.

14 (g) The priority of appropriation for a lease under
 15 this section is the same as the priority of appropriation of
 16 the right that is leased.

17 (h) Neither a change in appropriation right nor any
 18 other authorization is required for the reversion of the
 19 appropriation right to the lessor's previous use.

20 (i) A person issued a water use permit with a priority
 21 of appropriation after the date of filing of an application
 22 for a lease authorization under this section may not object
 23 to the exercise of the lease according to its terms--~~the~~
 24 ~~renewal--of-the-lease~~, or the reversion of the appropriation
 25 right to the lessor according to the lessor's previous use.

1 (j) The department of fish, wildlife, and parks shall
 2 pay all costs associated with installing measuring devices
 3 or providing personnel to measure streamflows according to
 4 the measuring plan submitted under this section.

5 (3) (a) The department of fish, wildlife, and parks
 6 shall complete and submit to the board and, commission a,
 7 AND WATER POLICY COMMITTEE AN ANNUAL study progress report
 8 by December 17--1991 OF EACH YEAR. This report must include
 9 the applicable information listed in subsection (1) for each
 10 lease. If the department of fish, wildlife, and parks has
 11 not leased water rights under this section by December 17
 12 1991 OF ANY YEAR, the department of fish, wildlife, and
 13 parks shall provide compelling justification for that fact
 14 in the study progress report.

15 (b) A final study report must be adopted by the board
 16 and commission and submitted to the water policy committee,
 17 which shall complete a the final report by December 1, ~~1990~~
 18 ~~1992~~ 1998.

19 (4) THIS SECTION DOES NOT CREATE THE RIGHT FOR A PERSON
 20 TO BRING SUIT TO COMPEL THE RENEWAL OF A LEASE THAT HAS
 21 EXPIRED. (Terminates June 30, 1993 ~~1995~~ 1999--sec. 11, Ch.
 22 658, L. 1989.)"

23 **Section 2.** Section 85-2-437, MCA, is amended to read:

24 "85-2-437. (Temporary) Board designation of eligible
 25 stream reaches. (1) The department of fish, wildlife, and

1 parks, with the consent of the commission, may apply to the
2 board for designation of stream reaches for which water
3 leasing to maintain or enhance streamflows pursuant to
4 85-2-436 may occur.

5 (2) The board may declare a stream reach eligible for
6 leasing pursuant to 85-2-436 only if it finds that water
7 leasing is necessary to maintain or enhance streamflows for
8 fisheries.

9 (3) The board may designate ~~no more than five~~ 10 NO
10 MORE THAN 10 stream reaches in the state where water leasing
11 pursuant to 85-2-436 may occur. If the department of fish,
12 wildlife, and parks determines that a water lease cannot be
13 reasonably obtained on a designated stream reach, the board
14 may remove the designation from that stream reach and
15 designate another stream reach pursuant to this section.
16 (Terminates June 30, ~~1993~~ 1995 1999--sec. 11, Ch. 658, L.
17 1989.)"

18 NEW SECTION. Section 3. Lease validity. All leases
19 entered into prior to June 30, 1995 1999, remain valid until
20 the expiration date of the lease.

21 **Section 4.** Section 11, Chapter 658, Laws of 1989, is
22 amended to read:

23 "Section 11. Termination. [This act] terminates June
24 30, ~~1993~~ 1995 1999."

25 NEW SECTION. SECTION 5. APPROPRIATION. THERE IS

1 APPROPRIATED FOR THE BIENNIUM ENDING JUNE 30, 1993, TO THE
2 DEPARTMENT OF FISH, WILDLIFE, AND PARKS \$22,500 FROM THE
3 FEDERAL SPECIAL REVENUE FUND AND \$7,500 FROM THE STATE
4 SPECIAL REVENUE FUND PROVIDED FOR IN 87-1-601(1) TO LEASE
5 EXISTING WATER RIGHTS AS PROVIDED IN 85-2-436(2)(A).

6 NEW SECTION. Section 6. Codification instruction.
7 [Section 3] is intended to be codified as an integral part
8 of Title 85, chapter 2, part 4, and the provisions of Title
9 85, chapter 2, part 4, apply to [section 3].

10 NEW SECTION. Section 7. Termination. [This act]
11 terminates June 30, 1995 1999.

12 NEW SECTION. SECTION 8. EFFECTIVE DATE. [THIS ACT] IS
13 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-