

SENATE BILL NO. 434

INTRODUCED BY T. BECK, GROSFIELD

IN THE SENATE

FEBRUARY 19, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON AGRICULTURE, LIVESTOCK, & IRRIGATION.

 FIRST READING.

FEBRUARY 23, 1991 COMMITTEE RECOMMEND BILL
 DO PASS. REPORT ADOPTED.

FEBRUARY 25, 1991 PRINTING REPORT.

 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 26, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 45; NOES, 4.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON NATURAL RESOURCES.

 FIRST READING.

APRIL 2, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

APRIL 6, 1991 SECOND READING, CONCURRED IN.

 ON MOTION, RULES SUSPENDED AND BILL
 PLACED ON THIRD READING THIS DAY.

 THIRD READING, CONCURRED IN.
 AYES, 97; NOES, 1.

APRIL 9, 1991 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 9, 1991 RECEIVED FROM HOUSE.

APRIL 17, 1991 SECOND READING, AMENDMENTS NOT

CONCURRED IN.

APRIL 18, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED.

APRIL 19, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 22, 1991

CONFERENCE COMMITTEE REPORTED.

APRIL 23, 1991

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1991

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 24, 1991

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1
 2 INTRODUCTION BY *Senate* BILL NO. *434*
 3 *T. Burk*
 4 *G. H. ...*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TEMPORARILY CLOSING THE
 6 UPPER CLARK FORK RIVER BASIN TO FURTHER APPROPRIATIONS;
 7 SUSPENDING ACTION ON APPLICATIONS FOR RESERVATIONS IN THE
 8 UPPER CLARK FORK RIVER BASIN; MODIFYING PRIORITY DATES FOR
 9 PENDING WATER RESERVATIONS IN THE UPPER CLARK FORK RIVER
 10 BASIN; CREATING AND ESTABLISHING DUTIES FOR AN UPPER CLARK
 11 FORK RIVER BASIN STEERING COMMITTEE; AND PROVIDING AN
 12 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

14 NEW SECTION. **Section 1. Definitions.** Unless the
 15 context requires otherwise, in [sections 1 through 3], the
 16 following definitions apply:

- 17 (1) "Application" means an application for a beneficial
- 18 water use permit pursuant to 85-2-302.
- 19 (2) "Upper Clark Fork River basin" means the drainage
- 20 area of the Clark Fork River and its tributaries above
- 21 Milltown dam.

22 NEW SECTION. **Section 2. Basin closure -- exception.**

23 (1) As provided in 85-2-319 and subject to the provisions of
 24 subsection (2) of this section, the department may not
 25 process or grant an application for a permit to appropriate

1 water within the Upper Clark Fork River basin during the
 2 period from [the effective date of this act] until the
 3 completion of the Upper Clark Fork River basin comprehensive
 4 management plan, as required under [section 3], or June 30,
 5 1995, whichever date is later.

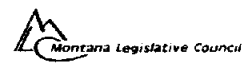
6 (2) The provisions of subsection (1) do not apply to an
 7 application for a permit to appropriate water for domestic
 8 use.

9 (3) Applications for water reservations in the Upper
 10 Clark Fork River basin filed pursuant to 85-2-316 and
 11 pending as of [the effective date of this act] have a
 12 priority date of [the effective date of this act].
 13 Reservation applicants have standing to object if a change
 14 in appropriation right proposed under 85-2-402 may adversely
 15 affect the pending reservation application.

16 (4) The board may not process or approve applications
 17 for reservations of water in the Upper Clark Fork River
 18 basin filed pursuant to 85-2-316 during the period of the
 19 basin closure provided in subsection (1).

20 NEW SECTION. **Section 3. Upper Clark Fork River basin**

21 **steering committee -- membership and duties -- comprehensive**
 22 **management plan.** (1) There is an Upper Clark Fork River
 23 basin steering committee. The department director shall
 24 appoint the members of the committee, selecting them on the
 25 basis of their knowledge of water use, water management,



-2-
 INTRODUCED BILL
 SB 434

1 fish, wildlife, recreation, water quality, and water
2 conservation. Representation on the committee must include
3 but is not limited to representatives from affected:

- 4 (a) agricultural organizations;
- 5 (b) conservation districts;
- 6 (c) departments of state government;
- 7 (d) environmental organizations;
- 8 (e) industries;
- 9 (f) local governments;
- 10 (g) reservation applicants;
- 11 (h) utilities; and
- 12 (i) water user organizations.

13 (2) The steering committee shall complete an Upper
14 Clark Fork River basin comprehensive management plan
15 pursuant to 85-1-203. The plan must:

- 16 (a) consider and balance all beneficial uses of the
17 water in the Upper Clark Fork River basin;
- 18 (b) include a description of the standards applied, the
19 data relied upon, and the methodology used in preparing the
20 plan;
- 21 (c) contain recommendations regarding the Upper Clark
22 Fork River basin closure as provided in [section 2]; and
- 23 (d) identify and make recommendations regarding the
24 resolution of water-related issues in the Upper Clark Fork
25 River basin.

1 (3) The steering committee shall complete and submit a
2 progress report to the governor and the legislature by
3 December 31, 1994.

4 NEW SECTION. Section 4. Codification instruction.
5 [Sections 1 through 3] are intended to be codified as an
6 integral part of Title 85, chapter 2, part 3, and the
7 provisions of Title 85, chapter 2, part 3, apply to
8 [sections 1 through 3].

9 NEW SECTION. Section 5. Effective date. [This act] is
10 effective on passage and approval.

11 NEW SECTION. Section 6. Applicability. [This act]
12 applies to all applications received by the department of
13 natural resources and conservation after [the effective date
14 of this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0434, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This act would temporarily close the Upper Clark Fork River Basin to further appropriations; suspend action on reservation applications in the basin; modify priority dates for pending water reservations in the basin; and create a basin steering committee.

ASSUMPTIONS:

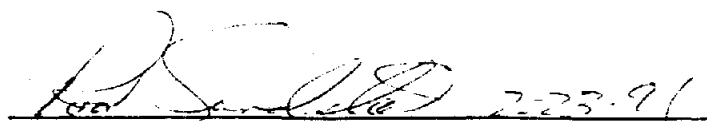
1. DNRC assumes that preparation of the management plan is part of the ongoing state water plan agenda and requires no additional funding.
2. DNRC also assumes that steering committee members will receive no compensation for their committee participation.
3. There would be no fiscal impact to the Department of Fish, Wildlife and Parks during FY92 and FY93 as a result of this proposed legislation.

FISCAL IMPACT:

None.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Should this bill pass, the reservation process would need to be continued again in FY95. Costs to conduct the hearings and update the EIS would be incurred at that time.



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

 7/25

THOMAS A. (TOM) BECK, PRIMARY SPONSOR DATE

Fiscal Note for SB0434, as introduced

SB 434

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
AND IRRIGATION

Senate BILL NO. *434*

INTRODUCED BY *T. Burk*

Groff

1 A BILL FOR AN ACT ENTITLED: "AN ACT TEMPORARILY CLOSING THE
2 UPPER CLARK FORK RIVER BASIN TO FURTHER APPROPRIATIONS;
3 SUSPENDING ACTION ON APPLICATIONS FOR RESERVATIONS IN THE
4 UPPER CLARK FORK RIVER BASIN; MODIFYING PRIORITY DATES FOR
5 PENDING WATER RESERVATIONS IN THE UPPER CLARK FORK RIVER
6 BASIN; CREATING AND ESTABLISHING DUTIES FOR AN UPPER CLARK
7 FORK RIVER BASIN STEERING COMMITTEE; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

10 NEW SECTION. **Section 1.** Definitions. Unless the
11 context requires otherwise, in [sections 1 through 3], the
12 following definitions apply:

13 (1) "Application" means an application for a beneficial
14 water use permit pursuant to 85-2-302.

15 (2) "Upper Clark Fork River basin" means the drainage
16 area of the Clark Fork River and its tributaries above
17 Milltown dam.

18 NEW SECTION. **Section 2.** Basin closure -- exception.

19 (1) As provided in 85-2-319 and subject to the provisions of
20 subsection (2) of this section, the department may not
21 process or grant an application for a permit to appropriate

1 water within the Upper Clark Fork River basin during the
2 period from [the effective date of this act] until the
3 completion of the Upper Clark Fork River basin comprehensive
4 management plan, as required under [section 3], or June 30,
5 1995, whichever date is later.

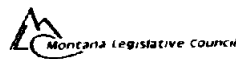
6 (2) The provisions of subsection (1) do not apply to an
7 application for a permit to appropriate water for domestic
8 use.

9 (3) Applications for water reservations in the Upper
10 Clark Fork River basin filed pursuant to 85-2-316 and
11 pending as of [the effective date of this act] have a
12 priority date of [the effective date of this act].
13 Reservation applicants have standing to object if a change
14 in appropriation right proposed under 85-2-402 may adversely
15 affect the pending reservation application.

16 (4) The board may not process or approve applications
17 for reservations of water in the Upper Clark Fork River
18 basin filed pursuant to 85-2-316 during the period of the
19 basin closure provided in subsection (1).

20 NEW SECTION. **Section 3.** Upper Clark Fork River basin
21 steering committee -- membership and duties -- comprehensive
22 management plan. (1) There is an Upper Clark Fork River
23 basin steering committee. The department director shall
24 appoint the members of the committee, selecting them on the
25 basis of their knowledge of water use, water management,

SECOND READING
SB 434



1 fish, wildlife, recreation, water quality, and water
2 conservation. Representation on the committee must include
3 but is not limited to representatives from affected:

- 4 (a) agricultural organizations;
- 5 (b) conservation districts;
- 6 (c) departments of state government;
- 7 (d) environmental organizations;
- 8 (e) industries;
- 9 (f) local governments;
- 10 (g) reservation applicants;
- 11 (h) utilities; and
- 12 (i) water user organizations.

13 (2) The steering committee shall complete an Upper
14 Clark Fork River basin comprehensive management plan
15 pursuant to 85-1-203. The plan must:

- 16 (a) consider and balance all beneficial uses of the
17 water in the Upper Clark Fork River basin;
- 18 (b) include a description of the standards applied, the
19 data relied upon, and the methodology used in preparing the
20 plan;
- 21 (c) contain recommendations regarding the Upper Clark
22 Fork River basin closure as provided in [section 2]; and
- 23 (d) identify and make recommendations regarding the
24 resolution of water-related issues in the Upper Clark Fork
25 River basin.

1 (3) The steering committee shall complete and submit a
2 progress report to the governor and the legislature by
3 December 31, 1994.

4 NEW SECTION. **Section 4. Codification instruction.**
5 [Sections 1 through 3] are intended to be codified as an
6 integral part of Title 85, chapter 2, part 3, and the
7 provisions of Title 85, chapter 2, part 3, apply to
8 [sections 1 through 3].

9 NEW SECTION. **Section 5. Effective date.** [This act] is
10 effective on passage and approval.

11 NEW SECTION. **Section 6. Applicability.** [This act]
12 applies to all applications received by the department of
13 natural resources and conservation after [the effective date
14 of this act].

-End-

1 SENATE BILL NO. 434

2 INTRODUCED BY T. BECK, GROSFIELD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TEMPORARILY CLOSING A
5 DESIGNATED PORTION OF THE UPPER CLARK FORK RIVER BASIN TO
6 FURTHER APPROPRIATIONS; SUSPENDING ACTION ON APPLICATIONS
7 FOR RESERVATIONS IN THE UPPER CLARK FORK RIVER BASIN;
8 MODIFYING PRIORITY DATES FOR PENDING WATER RESERVATIONS IN
9 THE UPPER CLARK FORK RIVER BASIN; CREATING AND ESTABLISHING
10 DUTIES FOR AN UPPER CLARK FORK RIVER BASIN STEERING
11 COMMITTEE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
12 APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. **Section 1.** Definitions. Unless the
16 context requires otherwise, in [sections 1 through 3], the
17 following definitions apply:

18 (1) "Application" means an application for a beneficial
19 water use permit pursuant to 85-2-302.

20 (2) "Upper Clark Fork River basin" means the drainage
21 area of the Clark Fork River and its tributaries above
22 Milltown dam BUT DOES NOT INCLUDE THE BLACKFOOT RIVER,
23 DESIGNATED AS SUBBASIN 76F, OR ROCK CREEK, DESIGNATED AS
24 SUBBASIN 76E.

25 NEW SECTION. **Section 2.** Basin closure -- exception.

1 (1) As provided in 85-2-319 and subject to the provisions of
2 subsection (2) of this section, the department may not
3 process or grant an application for a permit to appropriate
4 water within the Upper Clark Fork River basin during the
5 period from [the effective date of this act] until the
6 ~~completion-of-the-Upper-Clark-Fork-River-basin-comprehensive~~
7 ~~management-plan, as required under {section 3}, or June 30,~~
8 ~~1995, whichever date is later~~ DECEMBER 31, 1994.

9 (2) The provisions of subsection (1) do not apply to an
10 application for a permit to appropriate GROUND water for
11 ~~domestic use.~~

12 (3) Applications for water reservations in the Upper
13 Clark Fork River basin filed pursuant to 85-2-316 and
14 pending as of [the effective date of this act] have a
15 priority date of [the effective date of this act].
16 Reservation applicants have NO standing to object ~~if a~~
17 ~~change in appropriation right proposed~~ under 85-2-402 may
18 ~~adversely affect the pending reservation application~~ DURING
19 THE PERIOD OF THE BASIN CLOSURE PROVIDED IN SUBSECTION (1).

20 (4) The board may not process or approve applications
21 for reservations of SURFACE water in the Upper Clark Fork
22 River basin filed pursuant to 85-2-316 during the period of
23 the basin closure provided in subsection (1).

24 NEW SECTION. **Section 3.** Upper Clark Fork River basin
25 steering committee -- membership and duties -- comprehensive

1 **management plan.** (1) There is an Upper Clark Fork River
 2 basin steering committee. The department director shall
 3 appoint the members of the committee, selecting them on the
 4 basis of their knowledge of water use, water management,
 5 fish, wildlife, recreation, water quality, and water
 6 conservation. Representation on the committee must include
 7 but is not limited to representatives from affected:

- 8 (a) agricultural organizations;
- 9 (b) conservation districts;
- 10 (c) departments of state government;
- 11 (d) environmental organizations;
- 12 (e) industries;
- 13 (f) local governments;
- 14 (g) reservation applicants;
- 15 (h) utilities; and
- 16 (i) water user organizations.

17 (2) The steering committee shall complete an Upper
 18 Clark Fork River basin comprehensive management plan
 19 pursuant to 85-1-203. The plan must:

- 20 (a) consider and balance all beneficial uses of the
 21 water in the Upper Clark Fork River basin;
- 22 (b) include a description of the standards applied, the
 23 data relied upon, and the methodology used in preparing the
 24 plan;
- 25 (c) contain recommendations regarding the Upper Clark

1 Fork River basin closure as provided in [section 2]; and

2 (d) identify and make recommendations regarding the
 3 resolution of water-related issues in the Upper Clark Fork
 4 River basin.

5 (3) The steering committee shall complete and submit a
 6 progress report to the governor and the legislature by
 7 December 31, 1994.

8 NEW SECTION. **Section 4.** Codification instruction.

9 [Sections 1 through 3] are intended to be codified as an
 10 integral part of Title 85, chapter 2, part 3, and the
 11 provisions of Title 85, chapter 2, part 3, apply to
 12 [sections 1 through 3].

13 NEW SECTION. **Section 5.** Effective date. [This act] is
 14 effective on passage and approval.

15 NEW SECTION. **Section 6.** Applicability. [This act]
 16 applies to all applications received by the department of
 17 natural resources and conservation after [the effective date
 18 of this act].

-End-

HOUSE STANDING COMMITTEE REPORT

April 2, 1991
Page 1 of 3

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 434 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Raney
Bob Raney, Chairman

Carried by: Rep. O'Keefe

And, that such amendments read:

1. Title, line 6.
Following: "APPROPRIATIONS"
Insert: ", EXCEPT APPROPRIATIONS FOR GROUND WATER"
2. Title, line 9.
Following: "BASIN;"
Insert: "REQUIRING AN APPLICANT FOR A GROUND WATER PERMIT TO SUBMIT A REPORT REGARDING THE SOURCE OF THE GROUND WATER AND DEPARTMENT FINDINGS REGARDING THE SOURCE;"
3. Page 1, line 16.
Strike: "3"
Insert: "4"
4. Page 1, line 20.
Following: line 19
Insert: "(2) 'Domestic use' means use of water common to family homes, including use for culinary purposes, washing, drinking water for humans and domestic pets, and irrigation of a lawn or garden of less than 1 acre, not to exceed a total of 3.5 acre-feet per year. The term includes municipal uses for expanded domestic use but does not include commercial or industrial use.
(3) 'Ground water' means any water that is beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water and that is not a part of that surface water."
Renumber: subsequent subsection
5. Page 2, line 8.
Strike: "DECEMBER 31, 1994"
Insert: "June 30, 1995"

6. Page 2, line 9.
Following: "apply to"
Insert: "(a)"

7. Page 2, line 11.
Following: "use"
Insert: "or water for domestic use; and
(b) an application for a permit to appropriate water to conduct response actions or remedial actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or Title 75, chapter 10, part 7"

8. Page 2, line 21.
Strike: "SURFACE"
Following: "water"
Insert: ", except ground water,"

9. Page 2, line 24.
Following: line 23
Insert: "NEW SECTION. Section 3. Ground water permit applications -- report required. (1) During the period of basin closure provided in [section 2(1)], an applicant for a ground water permit in the Upper Clark Fork River basin shall submit a report prepared by a professional engineer or hydrologist verifying that the source of the ground water is not a part of or substantially or directly connected to surface water. If the applicant fails to submit the report required in this section, the application is considered defective and must be processed pursuant to 85-2-302.
(2) In addition to the criteria of 85-2-311, the department shall find, based on substantial credible evidence, that the source of the ground water is not a part of or substantially or directly connected to surface water."
Renumber: subsequent sections

10. Page 4, line 1.
Strike: "and"

11. Page 4, line 4.
Following: "basin"
Insert: "; and
(e) include the Blackfoot River, designated as subbasin 76F, and Rock Creek, designated as subbasin 76E, in any considerations made under subsections (2)(a) through (2)(d)"

April 2, 1991
Page 3 of 3

12. Page 4, line 6.
Strike: "progress report"
Insert: "management plan"

13. Page 4, lines 9 and 12.
Strike: "3"
Insert: "4"

SENATE BILL NO. 434

INTRODUCED BY T. BECK, GROSFIELD

A BILL FOR AN ACT ENTITLED: "AN ACT TEMPORARILY CLOSING A DESIGNATED PORTION OF THE UPPER CLARK FORK RIVER BASIN TO FURTHER APPROPRIATIONS, EXCEPT APPROPRIATIONS FOR GROUND WATER; SUSPENDING ACTION ON APPLICATIONS FOR RESERVATIONS IN THE UPPER CLARK FORK RIVER BASIN; MODIFYING PRIORITY DATES FOR PENDING WATER RESERVATIONS IN THE UPPER CLARK FORK RIVER BASIN; REQUIRING AN APPLICANT FOR A GROUND WATER PERMIT TO SUBMIT A REPORT REGARDING THE SOURCE OF THE GROUND WATER AND DEPARTMENT FINDINGS REGARDING THE SOURCE; CREATING AND ESTABLISHING DUTIES FOR AN UPPER CLARK FORK RIVER BASIN STEERING COMMITTEE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Definitions. Unless the context requires otherwise, in [sections 1 through 3 4], the following definitions apply:

(1) "Application" means an application for a beneficial water use permit pursuant to 85-2-302.

(2) "DOMESTIC USE" MEANS USE OF WATER COMMON TO FAMILY HOMES, INCLUDING USE FOR CULINARY PURPOSES, WASHING, DRINKING WATER FOR HUMANS AND DOMESTIC PETS, AND IRRIGATION

OF A LAWN OR GARDEN OF LESS THAN 1 ACRE, NOT TO EXCEED A TOTAL OF 3.5 ACRE-FEET PER YEAR. THE TERM INCLUDES MUNICIPAL USES FOR EXPANDED DOMESTIC USE BUT DOES NOT INCLUDE COMMERCIAL OR INDUSTRIAL USE.

(3) "GROUND WATER" MEANS ANY WATER THAT IS BENEATH THE LAND SURFACE OR BENEATH THE BED OF A STREAM, LAKE, RESERVOIR, OR OTHER BODY OF SURFACE WATER AND THAT IS NOT A PART OF THAT SURFACE WATER.

(4) "Upper Clark Fork River basin" means the drainage area of the Clark Fork River and its tributaries above Milltown dam BUT DOES NOT INCLUDE THE BLACKFOOT RIVER, DESIGNATED AS SUBBASIN 76F, OR ROCK CREEK, DESIGNATED AS SUBBASIN 76E.

NEW SECTION. Section 2. Basin closure -- exception.

(1) As provided in 85-2-319 and subject to the provisions of subsection (2) of this section, the department may not process or grant an application for a permit to appropriate water within the Upper Clark Fork River basin during the period from [the effective date of this act] until the completion-of-the-Upper-Clark-Fork-River-basin-comprehensive-management-plan-as-required-under-section-3-or-June-30-1995-whichever-date-is-later DECEMBER-31-1994 JUNE 30, 1995.

(2) The provisions of subsection (1) do not apply to:

(A) an application for a permit to appropriate GROUND



1 ~~water for-domestic-use~~ OR WATER FOR DOMESTIC USE; AND

2 (B) AN APPLICATION FOR A PERMIT TO APPROPRIATE WATER TO
3 CONDUCT RESPONSE ACTIONS OR REMEDIAL ACTIONS PURSUANT TO THE
4 FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION,
5 AND LIABILITY ACT OF 1980, AS AMENDED, OR TITLE 75, CHAPTER
6 10, PART 7.

7 (3) Applications for water reservations in the Upper
8 Clark Fork River basin filed pursuant to 85-2-316 and
9 pending as of [the effective date of this act] have a
10 priority date of [the effective date of this act].
11 Reservation applicants have NO standing to object ~~if--a~~
12 ~~change--in--appropriation--right-proposed~~ under 85-2-402 may
13 ~~adversely-affect-the-pending-reservation-application~~ DURING
14 THE PERIOD OF THE BASIN CLOSURE PROVIDED IN SUBSECTION (1).

15 (4) The board may not process or approve applications
16 for reservations of SURFACE water, EXCEPT GROUND WATER, in
17 the Upper Clark Fork River basin filed pursuant to 85-2-316
18 during the period of the basin closure provided in
19 subsection (1).

20 NEW SECTION. SECTION 3. GROUND WATER PERMIT
21 APPLICATIONS -- REPORT REQUIRED. (1) DURING THE PERIOD OF
22 BASIN CLOSURE PROVIDED IN [SECTION 2(1)], AN APPLICANT FOR A
23 GROUND WATER PERMIT IN THE UPPER CLARK FORK RIVER BASIN
24 SHALL SUBMIT A REPORT PREPARED BY A PROFESSIONAL ENGINEER OR
25 HYDROLOGIST VERIFYING THAT THE SOURCE OF THE GROUND WATER IS

1 NOT A PART OF OR SUBSTANTIALLY OR DIRECTLY CONNECTED TO
2 SURFACE WATER. IF THE APPLICANT FAILS TO SUBMIT THE REPORT
3 REQUIRED IN THIS SECTION, THE APPLICATION IS CONSIDERED
4 DEFECTIVE AND MUST BE PROCESSED PURSUANT TO 85-2-302.

5 (2) IN ADDITION TO THE CRITERIA OF 85-2-311, THE
6 DEPARTMENT SHALL FIND, BASED ON SUBSTANTIAL CREDIBLE
7 EVIDENCE, THAT THE SOURCE OF THE GROUND WATER IS NOT A PART
8 OF OR SUBSTANTIALLY OR DIRECTLY CONNECTED TO SURFACE WATER.

9 NEW SECTION. Section 4. Upper Clark Fork River basin
10 steering committee -- membership and duties -- comprehensive
11 management plan. (1) There is an Upper Clark Fork River
12 basin steering committee. The department director shall
13 appoint the members of the committee, selecting them on the
14 basis of their knowledge of water use, water management,
15 fish, wildlife, recreation, water quality, and water
16 conservation. Representation on the committee must include
17 but is not limited to representatives from affected:

- 18 (a) agricultural organizations;
19 (b) conservation districts;
20 (c) departments of state government;
21 (d) environmental organizations;
22 (e) industries;
23 (f) local governments;
24 (g) reservation applicants;
25 (h) utilities; and

1 (1) water user organizations.

2 (2) The steering committee shall complete an Upper

3 Clark Fork River basin comprehensive management plan

4 pursuant to 85-1-203. The plan must:

5 (a) consider and balance all beneficial uses of the

6 water in the Upper Clark Fork River basin;

7 (b) include a description of the standards applied, the

8 data relied upon, and the methodology used in preparing the

9 plan;

10 (c) contain recommendations regarding the Upper Clark

11 Fork River basin closure as provided in [section 2]; and

12 (d) identify and make recommendations regarding the

13 resolution of water-related issues in the Upper Clark Fork

14 River basin; AND

15 (E) INCLUDE THE BLACKFOOT RIVER, DESIGNATED AS SUBBASIN

16 76F, AND ROCK CREEK, DESIGNATED AS SUBBASIN 76E, IN ANY

17 CONSIDERATIONS MADE UNDER SUBSECTIONS (2)(A) THROUGH (2)(D).

18 (3) The steering committee shall complete and submit a

19 progress--report MANAGEMENT PLAN to the governor and the

20 legislature by December 31, 1994.

21 NEW SECTION. Section 5. Codification instruction.

22 [Sections 1 through 3 4] are intended to be codified as an

23 integral part of Title 85, chapter 2, part 3, and the

24 provisions of Title 85, chapter 2, part 3, apply to

25 [sections 1 through 3 4].

1 NEW SECTION. Section 6. Effective date. [This act] is

2 effective on passage and approval.

3 NEW SECTION. Section 7. Applicability. [This act]

4 applies to all applications received by the department of

5 natural resources and conservation after [the effective date

6 of this act].

-End-

Conference Committee
on Senate Bill No. 434
Report No. 1, April 22, 1991

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 434, met and considered the amendments of the House Natural Resources Standing Committee Report dated April 2, 1991.

We recommend that Senate Bill No. 434 (reference copy - salmon) be amended as follows:

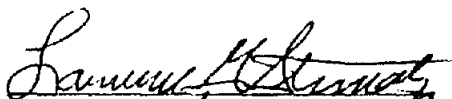
1. Page 3, line 6.

Following: "PART 7." on line 6


Insert: "A permit issued to conduct response actions or remedial actions must be limited to a term not to exceed the necessary time to complete the response or remedial action, and the permit may not be transferred to any person for any purpose other than the designated response or remedial action."

And that this Conference Committee report be adopted.

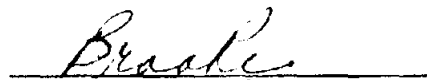
For the Senate:



Chair, Sen. Stimatz

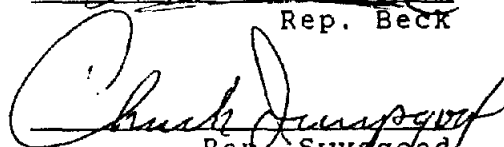

Sen. Halligan

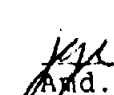

Sen. Beck

For the House:


Chair, Rep. Brooke


Rep. Beck


Rep. Swygood

 4-22-91
And. Coord.
SB 4-22-91 4:50
Sec. of Senate

ADOPT

REJECT

CCR #1
SB 434
861012CC.Sji

SENATE BILL NO. 434

INTRODUCED BY T. BECK, GROSFIELD

A BILL FOR AN ACT ENTITLED: "AN ACT TEMPORARILY CLOSING A DESIGNATED PORTION OF THE UPPER CLARK FORK RIVER BASIN TO FURTHER APPROPRIATIONS, EXCEPT APPROPRIATIONS FOR GROUND WATER; SUSPENDING ACTION ON APPLICATIONS FOR RESERVATIONS IN THE UPPER CLARK FORK RIVER BASIN; MODIFYING PRIORITY DATES FOR PENDING WATER RESERVATIONS IN THE UPPER CLARK FORK RIVER BASIN; REQUIRING AN APPLICANT FOR A GROUND WATER PERMIT TO SUBMIT A REPORT REGARDING THE SOURCE OF THE GROUND WATER AND DEPARTMENT FINDINGS REGARDING THE SOURCE; CREATING AND ESTABLISHING DUTIES FOR AN UPPER CLARK FORK RIVER BASIN STEERING COMMITTEE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Definitions. Unless the context requires otherwise, in [sections 1 through 3 4], the following definitions apply:

(1) "Application" means an application for a beneficial water use permit pursuant to 85-2-302.

(2) "DOMESTIC USE" MEANS USE OF WATER COMMON TO FAMILY HOMES, INCLUDING USE FOR CULINARY PURPOSES, WASHING, DRINKING WATER FOR HUMANS AND DOMESTIC PETS, AND IRRIGATION

OF A LAWN OR GARDEN OF LESS THAN 1 ACRE, NOT TO EXCEED A TOTAL OF 3.5 ACRE-FEET PER YEAR. THE TERM INCLUDES MUNICIPAL USES FOR EXPANDED DOMESTIC USE BUT DOES NOT INCLUDE COMMERCIAL OR INDUSTRIAL USE.

(3) "GROUND WATER" MEANS ANY WATER THAT IS BENEATH THE LAND SURFACE OR BENEATH THE BED OF A STREAM, LAKE, RESERVOIR, OR OTHER BODY OF SURFACE WATER AND THAT IS NOT A PART OF THAT SURFACE WATER.

(4) "Upper Clark Fork River basin" means the drainage area of the Clark Fork River and its tributaries above Milltown dam BUT DOES NOT INCLUDE THE BLACKFOOT RIVER, DESIGNATED AS SUBBASIN 76F, OR ROCK CREEK, DESIGNATED AS SUBBASIN 76E.

NEW SECTION. Section 2. Basin closure -- exception.

(1) As provided in 85-2-319 and subject to the provisions of subsection (2) of this section, the department may not process or grant an application for a permit to appropriate water within the Upper Clark Fork River basin during the period from [the effective date of this act] until the completion-of-the-Upper-Clark-Fork-River-basin-comprehensive-management-plan-as-required-under-section-3-or-June-30, 1995, whichever-date-is-later ~~DECEMBER 31, 1994~~ JUNE 30, 1995.

(2) The provisions of subsection (1) do not apply to:

(A) an application for a permit to appropriate GROUND

1 ~~water for-domestic-use~~ OR WATER FOR DOMESTIC USE; AND

2 (B) AN APPLICATION FOR A PERMIT TO APPROPRIATE WATER TO
 3 CONDUCT RESPONSE ACTIONS OR REMEDIAL ACTIONS PURSUANT TO THE
 4 FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION,
 5 AND LIABILITY ACT OF 1980, AS AMENDED, OR TITLE 75, CHAPTER
 6 10, PART 7. A PERMIT ISSUED TO CONDUCT RESPONSE ACTIONS OR
 7 REMEDIAL ACTIONS MUST BE LIMITED TO A TERM NOT TO EXCEED THE
 8 NECESSARY TIME TO COMPLETE THE RESPONSE OR REMEDIAL ACTION,
 9 AND THE PERMIT MAY NOT BE TRANSFERRED TO ANY PERSON FOR ANY
 10 PURPOSE OTHER THAN THE DESIGNATED RESPONSE OR REMEDIAL
 11 ACTION.

12 (3) Applications for water reservations in the Upper
 13 Clark Fork River basin filed pursuant to 85-2-316 and
 14 pending as of [the effective date of this act] have a
 15 priority date of [the effective date of this act].
 16 Reservation applicants have NO standing to object ~~if--a~~
 17 ~~change--in--appropriation--right-proposed~~ under 85-2-402 may
 18 ~~adversely-affect-the-pending-reservation-application~~ DURING
 19 THE PERIOD OF THE BASIN CLOSURE PROVIDED IN SUBSECTION (1).

20 (4) The board may not process or approve applications
 21 for reservations of SURFACE water, EXCEPT GROUND WATER, in
 22 the Upper Clark Fork River basin filed pursuant to 85-2-316
 23 during the period of the basin closure provided in
 24 subsection (1).

25 NEW SECTION. SECTION 3. GROUND WATER PERMIT

1 APPLICATIONS -- REPORT REQUIRED. (1) DURING THE PERIOD OF
 2 BASIN CLOSURE PROVIDED IN [SECTION 2(1)], AN APPLICANT FOR A
 3 GROUND WATER PERMIT IN THE UPPER CLARK FORK RIVER BASIN
 4 SHALL SUBMIT A REPORT PREPARED BY A PROFESSIONAL ENGINEER OR
 5 HYDROLOGIST VERIFYING THAT THE SOURCE OF THE GROUND WATER IS
 6 NOT A PART OF OR SUBSTANTIALLY OR DIRECTLY CONNECTED TO
 7 SURFACE WATER. IF THE APPLICANT FAILS TO SUBMIT THE REPORT
 8 REQUIRED IN THIS SECTION, THE APPLICATION IS CONSIDERED
 9 DEFECTIVE AND MUST BE PROCESSED PURSUANT TO 85-2-302.

10 (2) IN ADDITION TO THE CRITERIA OF 85-2-311, THE
 11 DEPARTMENT SHALL FIND, BASED ON SUBSTANTIAL CREDIBLE
 12 EVIDENCE, THAT THE SOURCE OF THE GROUND WATER IS NOT A PART
 13 OF OR SUBSTANTIALLY OR DIRECTLY CONNECTED TO SURFACE WATER.

14 NEW SECTION. Section 4. Upper Clark Fork River basin
 15 steering committee -- membership and duties -- comprehensive
 16 management plan. (1) There is an Upper Clark Fork River
 17 basin steering committee. The department director shall
 18 appoint the members of the committee, selecting them on the
 19 basis of their knowledge of water use, water management,
 20 fish, wildlife, recreation, water quality, and water
 21 conservation. Representation on the committee must include
 22 but is not limited to representatives from affected:

- 23 (a) agricultural organizations;
- 24 (b) conservation districts;
- 25 (c) departments of state government;

1 (d) environmental organizations;
 2 (e) industries;
 3 (f) local governments;
 4 (g) reservation applicants;
 5 (h) utilities; and
 6 (i) water user organizations.

7 (2) The steering committee shall complete an Upper
 8 Clark Fork River basin comprehensive management plan
 9 pursuant to 85-1-203. The plan must:

10 (a) consider and balance all beneficial uses of the
 11 water in the Upper Clark Fork River basin;
 12 (b) include a description of the standards applied, the
 13 data relied upon, and the methodology used in preparing the
 14 plan;

15 (c) contain recommendations regarding the Upper Clark
 16 Fork River basin closure as provided in [section 2]; and

17 (d) identify and make recommendations regarding the
 18 resolution of water-related issues in the Upper Clark Fork
 19 River basin; AND

20 (E) INCLUDE THE BLACKFOOT RIVER, DESIGNATED AS SUBBASIN
 21 76F, AND ROCK CREEK, DESIGNATED AS SUBBASIN 76E, IN ANY
 22 CONSIDERATIONS MADE UNDER SUBSECTIONS (2)(A) THROUGH (2)(D).

23 (3) The steering committee shall complete and submit a
 24 ~~progress--report~~ MANAGEMENT PLAN to the governor and the
 25 legislature by December 31, 1994.

1 NEW SECTION. Section 5. Codification instruction.
 2 [Sections 1 through 3 4] are intended to be codified as an
 3 integral part of Title 85, chapter 2, part 3, and the
 4 provisions of Title 85, chapter 2, part 3, apply to
 5 [sections 1 through 3 4].

6 NEW SECTION. Section 6. Effective date. [This act] is
 7 effective on passage and approval.

8 NEW SECTION. Section 7. Applicability. [This act]
 9 applies to all applications received by the department of
 10 natural resources and conservation after [the effective date
 11 of this act].

-End-