

1 *House* BILL NO. 491
 2 INTRODUCED BY *William Bradley* VINCENT HARPER
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 89-885, R.C.M. 1947, BY MAKING THE PUBLIC INTEREST A
 6 CRITERIA FOR THE ISSUANCE OF CERTAIN PERMITS TO APPROPRIATE
 7 WATER; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."
 8

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

10 Section 1. Section 89-885, R.C.M. 1947, is amended to
 11 read as follows:

12 "89-885. Criteria for issuance of permit. The
 13 department shall issue a permit if:

14 (1) there are unappropriated waters in the source of
 15 supply;

16 (2) the rights of a prior appropriator will not be
 17 adversely affected;

18 (3) the proposed means of diversion or construction are
 19 adequate;

20 (4) the proposed use of water is a beneficial use;

21 (5) the proposed use will not interfere unreasonably
 22 with other planned uses or developments for which a permit
 23 has been issued or for which water has been reserved; and

24 (6) if the application involves the use of ten
 25 thousand (10,000) or more acre feet of water per year or

1 fifteen (15) or more cubic feet per second of water, the
 2 proposed use must be in the public interest. To determine
 3 whether the proposed use would be in the public interest,
 4 the department shall consider:

5 (a) the benefit to the applicant resulting from the
 6 proposed use;

7 (b) the effects of the economic activity resulting
 8 from the proposed use;

9 (c) the effect of the proposed use upon fish and game
 10 resources and public recreation opportunities;

11 (d) the effect of the proposed use on the public
 12 health and safety;

13 (e) the effect of the loss of alternative uses of
 14 water that might be made within a reasonable time if not
 15 precluded or hindered by the proposed use;

16 (f) the intent and ability of the applicant to
 17 complete the proposed appropriation; and

18 (g) such other factors as it considers relevant."

19 Section 2. This act is effective upon its passage and
 20 approval.

-End-

HB 491

Approved by Committee
on Natural Resources

HOUSE BILL NO. 491

INTRODUCED BY JAMES MOORE, BRADLEY, VINCENT, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 89-885, R.C.M. 1947, BY MAKING THE PUBLIC INTEREST A CRITERIA FOR THE ISSUANCE OF CERTAIN PERMITS TO APPROPRIATE WATER; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

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(5) the proposed use will not interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved; and

(6) if the application involves the use of ten thousand (10,000) or more acre feet of water per year or

fifteen (15) or more cubic feet per second of water, the proposed use must be in the public interest. To determine whether the proposed use would be in the public interest, the department shall consider:

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(f) the intent and ability of the applicant to complete the proposed appropriation; and

(g) such other factors as it considers relevant."

SECTION 2. THIS ACT SHALL APPLY TO APPLICATIONS PENDING AND NOT YET ACTED UPON BEFORE THE EFFECTIVE DATE.

Section 3. This act is effective upon its passage and approval.

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