

1 *Senate* BILL NO. *373*
 2 INTRODUCED BY *Foster Richard Connor Blaylock*
 3 *Norman*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
 5 SUSPENSION OF ACTION ON CERTAIN APPLICATIONS FOR PERMITS TO
 6 APPROPRIATE SURFACE WATER IN THE COLUMBIA RIVER BASIN, THE
 7 MISSOURI RIVER BASIN, AND THE HUDSON BAY DRAINAGE BASIN,
 8 MAKING RESERVATIONS ESTABLISHED UNDER THE MONTANA WATER USE
 9 ACT."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Statement of legislative findings and
 13 policy. The legislature, noting that appropriations have
 14 been claimed, that applications have been filed for, and
 15 that there is further widespread interest in making
 16 substantial appropriations of water in the Columbia River
 17 basin, the Missouri River basin and the Hudson Bay drainage
 18 basin, finds that these appropriations threaten the
 19 depletion of Montana's water resources to the significant
 20 detriment of existing and projected agricultural, municipal,
 21 recreational, and other uses, and of wild and aquatic
 22 habitat. The legislature under its mandate and authority
 23 under Article IX of the Montana constitution, declares that
 24 it is the policy of this state that before these proposed
 25 appropriations are acted upon, existing rights to water in

1 the Columbia, Missouri, and the Hudson basins must be
 2 accurately determined for their protection and that
 3 reservations of water within the basins must be established
 4 as rapidly as possible for the preservation and protection
 5 of existing and future beneficial uses.

6 Section 2. Definitions. Unless the context clearly
 7 requires otherwise, definitions in this act are provided by
 8 section 89-8-104, R.C.M. 1947.

9 Section 3. Suspension of action. (1) The department
 10 may not grant or otherwise take any action on an application
 11 until either of the following first occurs:

12 (a) five (5) years have elapsed from the effective
 13 date of this act, or

14 (b) a final determination of existing rights has been
 15 made in the source of supply in accordance with the Montana
 16 Water Use Act.

17 (2) A reservation established before an application
 18 for permit is granted is a preferred use over the right to
 19 appropriate water under the permit, and the permit, if
 20 granted, shall be issued subject to that preferred use.

21 Section 4. When department may suspend action. Unless
 22 the context of this act clearly requires otherwise,
 23 suspension of action shall be covered by section 89-8-105,
 24 R.C.M. 1947, or if the department suspends action on
 25 applications, the provisions of section 3 of this act apply.

1 Section 5. Reservation of waters. Unless the context
2 of this act clearly requires otherwise, reservation of
3 waters shall be provided for by sections 89-890 and
4 89-8-107, R.C.M. 1947, or until the requirements of section
5 3 of this act are met.

6 Section 6. Application of act. Unless the context of
7 this act clearly requires otherwise, application of this act
8 shall be covered by section 89-8-108, R.C.M. 1947.

9 Section 7. Utility facilities. Unless the context of
10 this act clearly requires otherwise, utility facilities
11 shall be covered by section 89-8-109, R.C.M. 1947.

12 Section 8. Certain changes of use allowed. Unless the
13 context of this act clearly requires otherwise, certain
14 changes of use shall be covered by section 89-8-110, R.C.M.
15 1947.

16 Section 9. Severability. If a part of this act is
17 invalid, all valid parts that are severable from the invalid
18 part remain in effect. If a part of this act is invalid in
19 one or more of its applications, the part remains in effect
20 in all valid applications that are severable from the
21 invalid applications.

-End-

Objection Raised to
Adverse Committee Report

1 SENATE BILL NO. 373

2 INTRODUCED BY FOSTER, ETCHART, CONOVER, BLAYLOCK, NORMAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
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24 it is the policy of this state that before these proposed
25 appropriations are acted upon, existing rights to water in

1 the Columbia, Missouri, and the Hudson basins must be
2 accurately determined for their protection and that
3 reservations of water within the basins must be established
4 as rapidly as possible for the preservation and protection
5 of existing and future beneficial uses.

6 Section 2. Definitions. Unless the context clearly
7 requires otherwise, ~~definitions-in-this-act-are-provided-by~~
8 ~~section-89-9-104, R.C.M.-1947.~~ IN THIS ACT:

9 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
10 RESOURCES AND CONSERVATION.

11 (2) "BASIN" MEANS THE COLUMBIA RIVER BASIN WITHIN THE
12 STATE OF MONTANA, THE MISSOURI RIVER BASIN WITHIN THE STATE
13 OF MONTANA, AND THE HUDSON BAY DRAINAGE BASIN WITHIN THE
14 STATE OF MONTANA.

15 (3) "APPLICATION" MEANS AN APPLICATION FOR A PERMIT
16 UNDER THE MONTANA WATER USE ACT TO APPROPRIATE SURFACE WATER
17 FROM ANY SOURCE OF SUPPLY WITHIN THE BASIN FOR EITHER OR
18 BOTH OF THE FOLLOWING PURPOSES:

19 (A) A RESERVOIR WITH A TOTAL PLANNED CAPACITY OF
20 FOURTEEN THOUSAND (14,000) ACRE FEET OR MORE, OR

21 (B) FOR A FLOW RATE GREATER THAN TWENTY (20) CUBIC
22 FEET OF WATER PER SECOND. THE TERM ALSO INCLUDES AN
23 APPLICATION FOR APPROVAL UNDER SECTION 89-892, R.C.M. 1947,
24 TO CHANGE THE PURPOSE OF USE.

25 (4) "RESERVATION" MEANS A RESERVATION OF WATER

1 PROVIDED FOR BY SECTION 89-890 OF THE MONTANA WATER USE ACT.

2 Section 3. Suspension of action. (1) The department
3 may not grant or otherwise take any action on an application
4 FILED ON OR AFTER FEBRUARY 5, 1975 until either of the
5 following first occurs:

6 (a) ~~five--(5)~~ THREE (3) years have elapsed from the
7 effective date of this act, or

8 (b) a final determination of existing rights has been
9 made in the source of supply in accordance with the Montana
10 Water Use Act.

11 (2) A reservation established before an application
12 for permit is granted is a preferred use over the right to
13 appropriate water under the permit, and the permit, if
14 granted, shall be issued subject to that preferred use.

15 Section 4. When department may suspend action. Unless
16 the context of this act clearly requires otherwise,
17 suspension of action shall be covered by section 89-8-105,
18 R.C.M. 1947, or if the department suspends action on
19 applications, the provisions of section 3 of this act apply.

20 ~~Section 5. Reservation of waters.--Unless the context~~
21 ~~of this act clearly requires otherwise, reservation of~~
22 ~~waters shall be provided for by sections 89-890 and~~
23 ~~89-8-107, R.C.M. 1947, or until the requirements of section~~
24 ~~3 of this act are met.~~ RESERVATIONS. THE DEPARTMENT MAY
25 APPLY FOR RESERVATIONS AND SHALL, AS RAPIDLY AS POSSIBLE,

1 ASSIST OTHER APPROPRIATE STATE AGENCIES AND POLITICAL
2 SUBDIVISIONS IN APPLYING FOR RESERVATIONS WITHIN THE BASINS.
3 THE UNITED STATES OR ANY AGENCY THEREOF MAY NOT APPLY FOR A
4 RESERVATION OF WATER IN THE BASINS UNDER SECTION 89-890,
5 R.C.M. 1947, UNTIL THE REQUIREMENTS OF SECTION 3 OF THIS ACT
6 ARE MET. PREFERENCE SHALL BE GIVEN TO APPLICATIONS TO
7 RESERVE WATER IN THE FOLLOWING ORDER: AGRICULTURAL,
8 MUNICIPAL, RECREATIONAL AND MINIMUM FLOW PURPOSES FOR THE
9 PROTECTION OF EXISTING RIGHTS AND AQUATIC HABITAT.

10 Section 6. Application of act. Unless the context of
11 this act clearly requires otherwise, application of this act
12 shall be covered by section 89-8-108, R.C.M. 1947.

13 Section 7. Utility facilities. Unless the context of
14 this act clearly requires otherwise, utility facilities
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