

CHAPTER NO. 552

HOUSE BILL NO. 230

INTRODUCED BY KEMMIS, WATT, SHELDEN,
DAY, FEDA, GRAHAM, TURNAGE

IN THE HOUSE

January 17, 1979	Introduced and referred to Select Committee on water.
February 16, 1979	Committee recommend bill do pass. Report adopted.
February 17, 1979	Second reading, do pass as amended.
February 19, 1979	Correctly engrossed.
February 20, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 21, 1979	Introduced and referred to Committee on Natural Resources.
March 3, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Motion pass consideration. On motion taken from Committee Bills and Journal and placed on second reading.
March 9, 1979	Second reading, concurred in as amended.
March 10, 1979	On motion taken from Committee on Bills and Journal and placed on second reading.

March 12, 1979 Second reading, concurred in
as amended.

March 15, 1979 Third reading, concurred
in as amended.

IN THE HOUSE

March 16, 1979 Returned from second house.
Concurred in as amended.

March 17, 1979 Second reading, amendments
rejected.

On motion Free Conference
Committee requested.

March 19, 1979 Free Conference Committee
appointed.

March 29, 1979 Free Conference Committee
reported.

March 31, 1979 Second reading, adopted.

April 2, 1979 Third reading, adopted.

Second house, adopted.
Sent to enrolling.

Reported correctly enrolled.

1 *HOUSE* BILL NO. *230*
 2 INTRODUCED BY *Barbara Alderman Day Field*
 3 *Walt Stakeli Ternage*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
 5 SLURRY TRANSPORT OF COAL IS NOT A BENEFICIAL USE OF WATER;
 6 AMENDING SECTION 85-2-102, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 85-2-102, MCA, is amended to read:
10 "85-2-102. Definitions. Unless the context requires
11 otherwise, in this chapter the following definitions apply:

12 (1) "Appropriate" means to divert, impound, or
13 withdraw (including by stock for stock water) a quantity of
14 water or, in the case of a public agency, to reserve water
15 in accordance with 85-2-316.

16 (2) "Beneficial use", ~~unless otherwise provided,~~ means
17 a use of water for the benefit of the appropriator, other
18 persons, or the public, including but not limited to
19 agricultural (including stock water), domestic, fish and
20 wildlife, industrial, irrigation, mining, municipal, power,
21 and recreational uses. ~~A use of water for slurry to export
22 coal from Montana is not a beneficial use. Slurry is a
23 mixture of water and insoluble matter.~~

24 (3) "Board" means the board of natural resources and
25 conservation provided for in 2-15-3302.

1 (4) "Certificate" means the certificate of water right
2 issued by the department under 85-2-210, subsections (1) and
3 (2) of 85-2-306, and 85-2-315.

4 (5) "Declaration" means the declaration of an existing
5 right filed with the department under 85-2-203.

6 (6) "Department" means the department of natural
7 resources and conservation provided for in Title 2, chapter
8 15, part 33.

9 (7) "Existing right" means a right to the use of water
10 which would be protected under the law as it existed prior
11 to July 1, 1973.

12 (8) "Groundwater" means any water beneath the land
13 surface or beneath the bed of a stream, lake, reservoir, or
14 other body of surface water, and which is not a part of that
15 surface water.

16 (9) "Permit" means the permit to appropriate issued by
17 the department under 85-2-301 through 85-2-303 and 85-2-306
18 through 85-2-314.

19 (10) "Person" means an individual, association,
20 partnership, corporation, state agency, political
21 subdivision, the United States or any agency thereof, or any
22 other entity.

23 (11) "Political subdivision" means any county,
24 incorporated city or town, public corporation, or district
25 created pursuant to state law or other public body of the

1 state empowered to appropriate water but not a private
2 corporation, association, or group.

3 ~~(12) "Slurry" means a mixture of water and insoluble~~
4 ~~material.~~

5 ~~(13) "Waste" means the unreasonable loss of water~~
6 ~~through the design or negligent operation of an~~
7 ~~appropriation or water distribution facility or the~~
8 ~~application of water to anything but a beneficial use.~~

9 ~~(14) "Water" means all water of the state, surface~~
10 ~~and subsurface, regardless of its character or manner of~~
11 ~~occurrence, including geothermal water and diffuse surface~~
12 ~~water.~~

13 ~~(15) "Well" means any artificial opening or~~
14 ~~excavation in the ground, however made, by which groundwater~~
15 ~~is sought or can be obtained or through which it flows under~~
16 ~~natural pressures or is artificially withdrawn."~~

17 NEW SECTION. Section 2. Slurry transport of coal.
18 (1) Because of the shortage of economically available water
19 in the coal-mining regions of Montana and the availability
20 of alternative, economical means of transportation, the use
21 of water for the slurry transport of coal is detrimental to
22 the conservation and protection of the water resources of
23 the state.

24 (2) The use of water for the slurry transport of coal
25 is not a beneficial use of water.

1 Section 3. Codification. It is intended that section 2
2 be codified as an integral part of Title 85, chapter 2, part
3 1, and the provisions of Title 85, chapter 2, apply to
4 section 2.

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3 DAY, FEDA, GRAHAM, TURNAGE

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 11 and subsurface, regardless of its character or manner of
 12 occurrence, including geothermal water and diffuse surface
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14 ~~(15)~~ "Well" means any artificial opening or
 15 excavation in the ground, however made, by which groundwater
 16 is sought or can be obtained or through which it flows under
 17 natural pressures or is artificially withdrawn."

18 ~~NEW SECTION.~~ Section 2. Slurry transport of coal.
 19 ~~(1)-Because-of-the-shortage-of-economically-available-water~~
 20 ~~in--the--coal-mining-regions-of-Montana-and-the-availability~~
 21 ~~of-alternative-economical-means-of-transportation, the--use~~
 22 ~~of--water-for-the-slurry-transport-of-coal-is-detrimental-to~~
 23 ~~the-conservation-and-protection-of-the--water--resources--of~~
 24 ~~the-state.~~

25 ~~(2)(1)~~ The use of water for the slurry transport of

1 coal is not a beneficial use of water.

2 ~~(2) THE USE OF WATER FOR THE SLURRY TRANSPORTATION OF~~
 3 ~~COAL IS FOUND NOT TO BE A BENEFICIAL USE OF WATER BECAUSE~~
 4 ~~SUCH USE IS DETRIMENTAL TO THE CONSERVATION AND PROTECTION~~
 5 ~~OF THE WATER RESOURCES OF THE STATE; BECAUSE OF THE SHORTAGE~~
 6 ~~OF ECONOMICALLY AVAILABLE WATER WITHIN MONTANA; BECAUSE SUCH~~
 7 ~~USE IS DETRIMENTAL TO WATER QUALITY AND IS AN IMPAIRMENT OF~~
 8 ~~AN OTHERWISE REUSABLE RESOURCE; BECAUSE SUCH USE IS ADVERSE~~
 9 ~~TO EXISTING RESERVED WATER RIGHTS AND FORESEEABLE FUTURE~~
 10 ~~WATER USES; BECAUSE THE PRESENT DEMANDS UPON WATER OF THE~~
 11 ~~STATE ARE UNQUANTIFIED; AND BECAUSE OF THE UNDETERMINED~~
 12 ~~HYDROLOGICAL RELATIONSHIPS BETWEEN SURFACE AND SUBSURFACE~~
 13 ~~WATER, ALL OF THESE ADVERSE EFFECTS ARE FOUND TO SUPPORT THE~~
 14 ~~PROHIBITION OF THE USE OF WATER FOR SLURRY TRANSPORTATION.~~
 15 ~~FURTHER, THERE PRESENTLY EXIST ALTERNATIVE, ECONOMICAL MEANS~~
 16 ~~OF TRANSPORTING COAL.~~

17 Section 3. Codification. It is intended that section 2
 18 be codified as an integral part of Title 85, chapter 2, part
 19 1, and the provisions of Title 85, chapter 2, apply to
 20 section 2.

-End-

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DAY, FEDA, GRAHAM, TURNAGE

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mixture of water and insoluble matter.~~ A USE OF WATER FOR
SLURRY TO TRANSPORT COAL IS NOT A BENEFICIAL USE.

(3) "Board" means the board of natural resources and
conservation provided for in 2-15-3302.

(4) "Certificate" means the certificate of water right
issued by the department under 85-2-210, subsections (1) and
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(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

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19 ~~TRANSPORTATION. FURTHER, THERE PRESENTLY EXIST ALTERNATIVE~~
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REFERENCE BILL: Includes Free Joint -2-
 Conference Committee Report
 Dated 3/22/99

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25 the state. (1) THE THE LEGISLATURE FINDS THAT THE USE OF

1 WATER FOR THE SLURRY TRANSPORT OF COAL IS NOT A BENEFICIAL
2 USE BECAUSE SUCH USE IS DETRIMENTAL TO THE CONSERVATION AND
3 PROTECTION OF THE WATER RESOURCES OF THE STATE.

4 ~~(2)(11)(12)~~ The use of water for the slurry transport of
5 coal is not a beneficial use of water.

6 ~~(2) THE USE OF WATER FOR THE SLURRY TRANSPORTATION OF~~
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24 section 2.

-End-

March 9, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 230 be amended as follows:

1. Page 1, lines 24 and 25.

Strike: "A USE OF WATER FOR SLURRY TO TRANSPORT COAL IS NOT A
BENEFICIAL USE."

2. Page 4, line 1.

Following: "COAL IS"

Insert: "not a beneficial use because such use"

March 12, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 230 be amended as follows:

1. Page 4, line 1.

Following: "USE"

Insert: "is"