

HOUSE BILL NO. 324

INTRODUCED BY BURNETT, McLANE, ROTH

IN THE HOUSE

January 19, 1981	Introduced and referred to Committee on Water.
February 9, 1981	Committee recommend bill do pass as amended. Report adopted.
February 10, 1981	Bill printed and placed on members' desks.
February 11, 1981	Second reading, do pass.
February 12, 1981	Correctly engrossed.
February 13, 1981	Third reading, passed. Ayes, 87; Noes, 8. Transmitted to Senate.

IN THE SENATE

February 14, 1981	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 5, 1981	Committee recommend bill be concurred in. Report adopted.
March 7, 1981	Second reading, concurred in.
March 10, 1981	On motion taken from third reading and referred to second reading. Motion adopted.
March 11, 1981	Second reading, concurred in as amended.
March 13, 1981	Third reading, concurred in as amended. Ayes, 47; Noes, 0.

IN THE HOUSE

March 14, 1981

Returned from Senate with amendments.

March 18, 1981

Second reading, amendments concurred in.

March 20, 1981

Third reading, amendments concurred in. Ayes, 90; Noes, 2. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 324
2 INTRODUCED BY Burnett Mc Lane Roth

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 85-2-306, MCA, TO EXCEPT FROM THE WATER APPROPRIATION PERMIT
6 PROCESS THE REQUIREMENT FOR APPLICATION FOR A PERMIT PRIOR
7 TO CONSTRUCTING AN IMPOUNDMENT OR PIT AND APPROPRIATING
8 WATER FOR USE BY LIVESTOCK REGARDLESS OF THE SIZE OF THE
9 IMPOUNDMENT IF THE SOURCE OF WATER IS OTHER THAN A PERENNIAL
10 FLOWING STREAM."

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

13 Section 1. Section 85-2-306, MCA, is amended to read:

14 "85-2-306. Exceptions to permit requirements. (1)
15 Outside the boundaries of a controlled groundwater area, a
16 permit is not required before appropriating groundwater by
17 means of a well with a maximum yield of less than 100
18 gallons a minute. Within 60 days of completion of the well
19 and appropriation of the groundwater for beneficial use, the
20 appropriator shall file notice of completion on a form
21 provided by the department at its offices and at the offices
22 of the county clerk and recorders. Upon receipt of the
23 notice, the department shall automatically issue a
24 certificate of water right. The original of the certificate
25 shall be sent to the county clerk and recorder in the county

1 where the point of diversion or place of use is located for
2 recordation. The department shall keep a copy of the
3 certificate in its office in Helena. After recordation, the
4 clerk and recorder shall send the certificate to the
5 appropriator. The date of filing of the notice of completion
6 is the date of priority of the right.

7 (2) A permit is not required before constructing an
8 impoundment or pit and appropriating water for use by
9 livestock if ~~the maximum capacity of the impoundment or pit~~
10 ~~is less than 15 acre feet~~ and the appropriation is from a
11 source other than a perennial flowing stream. As used in
12 this subsection, a perennial flowing stream means a stream
13 which historically has flowed continuously at all seasons of
14 the year, during dry as well as wet years. However, before
15 after constructing the impoundment or pit, the appropriator
16 shall apply for a permit as prescribed by this part. If the
17 department determines after processing the application that
18 the rights of other appropriators have been or will be
19 adversely affected, it may require the applicant to modify
20 the construction of the impoundment or pit and issue the
21 permit subject to such terms, conditions, restrictions, or
22 limitations it considers necessary to protect the rights of
23 other appropriators.

24 (3) A person may also appropriate water without
25 applying for or prior to receiving a permit under rules

LC 0893/01

1 adopted by the board under 85-2-113."

-End-

Approved by the
Select Committee on Water

HOUSE BILL NO. 324

INTRODUCED BY BURNETT, McLANE, ROTH

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 85-2-306, MCA, TO EXCEPT FROM THE WATER APPROPRIATION PERMIT PROCESS THE REQUIREMENT FOR APPLICATION FOR A PERMIT PRIOR TO CONSTRUCTING AN IMPOUNDMENT OR PIT AND APPROPRIATING WATER FOR USE BY LIVESTOCK REGARDLESS OF THE SIZE OF THE IMPOUNDMENT IF THE SOURCE OF WATER IS OTHER THAN A PERENNIAL FLOWING STREAM."

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

Section 1. Section 85-2-306, MCA, is amended to read:
"85-2-306. Exceptions to permit requirements. (1) Outside the boundaries of a controlled groundwater area, a permit is not required before appropriating groundwater by means of a well with a maximum yield of less than 100 gallons a minute. Within 60 days of completion of the well and appropriation of the groundwater for beneficial use, the appropriator shall file notice of completion on a form provided by the department at its offices and at the offices of the county clerk and recorders. Upon receipt of the notice, the department shall automatically issue a certificate of water right. The original of the certificate shall be sent to the county clerk and recorder in the county

where the point of diversion or place of use is located for recordation. The department shall keep a copy of the certificate in its office in Helena. After recordation, the clerk and recorder shall send the certificate to the appropriator. The date of filing of the notice of completion is the date of priority of the right.

(2) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if ~~the maximum capacity of the impoundment or pit is less than 15 acre-feet and~~ THE MAXIMUM CAPACITY OF THE IMPOUNDMENT OR PIT IS LESS THAN 15 ACRE-FEET AND the appropriation is from a source other than a perennial flowing stream. As used in this subsection, a perennial flowing stream means a stream which historically has flowed continuously at all seasons of the year, during dry as well as wet years. However, before WITHIN 60 DAYS after constructing the impoundment or pit, the appropriator shall apply for a permit as prescribed by this part UPON RECEIPT OF A CORRECT AND COMPLETE APPLICATION FOR A STOCKWATER PROVISIONAL PERMIT, THE DEPARTMENT SHALL THEN AUTOMATICALLY ISSUE A PROVISIONAL PERMIT. If the department determines after ~~processing the application~~ A HEARING that the rights of other appropriators have been or will be adversely affected, it may REVOKE THE PERMIT OR require the APPLICANT PERMITTEE to modify ~~the construction of~~ the impoundment or

1 pit and issue MAY THEN MAKE the permit subject to such
2 terms, conditions, restrictions, or limitations it considers
3 necessary to protect the rights of other appropriators.

4 (3) A person may also appropriate water without
5 applying for or prior to receiving a permit under rules
6 adopted by the board under 85-2-113."

-End-

1 HOUSE BILL NO. 324

2 INTRODUCED BY BURNETT, McLANE, ROTH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 85-2-306, MCA, TO EXCEPT FROM THE WATER APPROPRIATION PERMIT
6 PROCESS THE REQUIREMENT FOR APPLICATION FOR A PERMIT PRIOR
7 TO CONSTRUCTING AN IMPOUNDMENT OR PIT AND APPROPRIATING
8 WATER FOR USE BY LIVESTOCK REGARDLESS OF THE SIZE OF THE
9 IMPOUNDMENT IF THE SOURCE OF WATER IS OTHER THAN A PERENNIAL
10 FLOWING STREAM."

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

13 Section 1. Section 85-2-306, MCA, is amended to read:

14 "85-2-306. Exceptions to permit requirements. (1)
15 Outside the boundaries of a controlled groundwater area, a
16 permit is not required before appropriating groundwater by
17 means of a well with a maximum yield of less than 100
18 gallons a minute. Within 60 days of completion of the well
19 and appropriation of the groundwater for beneficial use, the
20 appropriator shall file notice of completion on a form
21 provided by the department at its offices and at the offices
22 of the county clerk and recorders. Upon receipt of the
23 notice, the department shall automatically issue a
24 certificate of water right. The original of the certificate
25 shall be sent to the county clerk and recorder in the county

1 where the point of diversion or place of use is located for
2 recordation. The department shall keep a copy of the
3 certificate in its office in Helena. After recordation, the
4 clerk and recorder shall send the certificate to the
5 appropriator. The date of filing of the notice of completion
6 is the date of priority of the right.

7 (2) A permit is not required before constructing an
8 impoundment or pit and appropriating water for use by
9 livestock if ~~the maximum capacity of the impoundment or pit~~
10 ~~is less than 15 acre-feet and~~ THE MAXIMUM CAPACITY OF THE
11 IMPOUNDMENT OR PIT IS LESS THAN 15 ACRE-FEET AND the
12 appropriation is from a source other than a perennial
13 flowing stream. As used in this subsection, a perennial
14 flowing stream means a stream which historically has flowed
15 continuously at all seasons of the year, during dry as well
16 as wet years. However, before WITHIN 60 DAYS after
17 constructing the impoundment or pit, the appropriator shall
18 apply for a permit as prescribed by this part UPON RECEIPT
19 OF A CORRECT AND COMPLETE APPLICATION FOR A STOCKWATER
20 PROVISIONAL PERMIT, THE DEPARTMENT SHALL THEN AUTOMATICALLY
21 ISSUE A PROVISIONAL PERMIT. If the department determines
22 after ~~processing the application~~ A HEARING that the rights
23 of other appropriators have been or will be adversely
24 affected, it may REVOKE THE PERMIT OR require the applicant
25 PERMITEE to modify ~~the construction of~~ the impoundment or

HB 0324/02

1 pit and ~~issue~~ MAY THEN MAKE the permit subject to such
2 terms, conditions, restrictions, or limitations it considers
3 necessary to protect the rights of other appropriators.

4 (3) A person may also appropriate water without
5 applying for or prior to receiving a permit under rules
6 adopted by the board under 85-2-113.*

-End-

1 HOUSE BILL NO. 324

2 INTRODUCED BY BURNETT, McLANE, ROTH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 85-2-306, MCA, TO EXCEPT FROM THE WATER APPROPRIATION PERMIT
6 PROCESS THE REQUIREMENT FOR APPLICATION FOR A PERMIT PRIOR
7 TO CONSTRUCTING AN IMPOUNDMENT OR PIT AND APPROPRIATING
8 WATER FOR USE BY LIVESTOCK REGARDLESS OF THE SIZE OF THE
9 IMPOUNDMENT IF THE SOURCE OF WATER IS OTHER THAN A PERENNIAL
10 FLOWING STREAM."

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

13 Section 1. Section 85-2-306, MCA, is amended to read:

14 "85-2-306. Exceptions to permit requirements. (1)

15 Outside the boundaries of a controlled groundwater area, a
16 permit is not required before appropriating groundwater by
17 means of a well with a maximum yield of less than 100
18 gallons a minute. Within 60 days of completion of the well
19 and appropriation of the groundwater for beneficial use, the
20 appropriator shall file notice of completion on a form
21 provided by the department at its offices and at the offices
22 of the county clerk and recorders. Upon receipt of the
23 notice, the department shall automatically issue a
24 certificate of water right. The original of the certificate
25 shall be sent to the county clerk and recorder in the county

1 where the point of diversion or place of use is located for
2 recordation. The department shall keep a copy of the
3 certificate in its office in Helena. After recordation, the
4 clerk and recorder shall send the certificate to the
5 appropriator. The date of filing of the notice of completion
6 is the date of priority of the right.

7 (2) A permit is not required before constructing an
8 impoundment or pit and appropriating water for use by
9 livestock if ~~the maximum capacity of the impoundment or pit~~
10 is less than 15 acre-feet and THE MAXIMUM CAPACITY OF THE
11 IMPOUNDMENT OR PIT IS LESS THAN 15 ACRE-FEET AND the
12 appropriation is from a source other than a perennial
13 flowing stream. As used in this subsection, a perennial
14 flowing stream means a stream which historically has flowed
15 continuously at all seasons of the year, during dry as well
16 as wet years. However, before WITHIN 60 DAYS after
17 constructing the impoundment or pit, the appropriator shall
18 apply for a permit as prescribed by this part UPON RECEIPT
19 OF A CORRECT AND COMPLETE APPLICATION FOR A STOCKWATER
20 PROVISIONAL PERMIT, THE DEPARTMENT SHALL THEN AUTOMATICALLY
21 ISSUE A PROVISIONAL PERMIT. If the department determines
22 after ~~processing the application~~ A HEARING that the rights
23 of other appropriators have been or will be adversely
24 affected, it may REVOKE THE PERMIT OR require the applicant
25 PERMITTEE to modify ~~the construction of~~ the impoundment or

HB 0324/02

1 pit and ~~issue~~ MAY THEN MAKE the permit subject to such
2 terms, conditions, restrictions, or limitations it considers
3 necessary to protect the rights of other appropriators.

4 (3) A person may also appropriate water without
5 applying for or prior to receiving a permit under rules
6 adopted by the board under 85-2-113."

-End-

HOUSE BILL NO. 324

INTRODUCED BY BURNETT, McLANE, ROTH

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 85-2-306, MCA, TO EXCEPT FROM THE WATER APPROPRIATION PERMIT PROCESS THE REQUIREMENT FOR APPLICATION FOR A PERMIT PRIOR TO CONSTRUCTING AN IMPOUNDMENT OR PIT AND APPROPRIATING WATER FOR USE BY LIVESTOCK REGARDLESS-OF-THE-SIZE-OF-THE IMPOUNDMENT IF THE SOURCE OF WATER IS OTHER THAN A PERENNIAL FLOWING STREAM."

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

Section 1. Section 85-2-306, MCA, is amended to read:

"85-2-306. Exceptions to permit requirements. (1) Outside the boundaries of a controlled groundwater area, a permit is not required before appropriating groundwater by means of a well with a maximum yield of less than 100 gallons a minute. Within 60 days of completion of the well and appropriation of the groundwater for beneficial use, the appropriator shall file notice of completion on a form provided by the department at its offices and at the offices of the county clerk and recorders. Upon receipt of the notice, the department shall automatically issue a certificate of water right. The original of the certificate shall be sent to the county clerk and recorder in the county

where the point of diversion or place of use is located for recordation. The department shall keep a copy of the certificate in its office in Helena. After recordation, the clerk and recorder shall send the certificate to the appropriator. The date of filing of the notice of completion is the date of priority of the right.

(2) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if ~~the maximum capacity of the impoundment or pit is less than 15 acre-feet and~~ THE MAXIMUM CAPACITY OF THE IMPOUNDMENT OR PIT IS LESS THAN 15 ACRE-FEET AND the appropriation is from a source other than a perennial flowing stream. As used in this subsection, a perennial flowing stream means a stream which historically has flowed continuously at all seasons of the year, during dry as well as wet years. However, before WITHIN 60 DAYS after constructing the impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. UPON RECEIPT OF A CORRECT AND COMPLETE APPLICATION FOR A STOCKWATER PROVISIONAL PERMIT, THE DEPARTMENT SHALL THEN AUTOMATICALLY ISSUE A PROVISIONAL PERMIT. If the department determines after ~~processing the application~~ A HEARING that the rights of other appropriators have been or will be adversely affected, it may REVOKE THE PERMIT OR require the ~~applicant~~ PERMITTEE to modify ~~the construction of the impoundment or~~

HB 0324/03

1 pit and issue MAY THEN MAKE the permit subject to such
2 terms, conditions, restrictions, or limitations it considers
3 necessary to protect the rights of other appropriators.

4 (3) A person may also appropriate water without
5 applying for or prior to receiving a permit under rules
6 adopted by the board under 85-2-113."

-End-

March 11, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill 324, reference copy, as follows:

1. Title, lines 8 and 9.

Following: "LIVESTOCK"

Strike: "REGARDLESS OF THE SIZE OF THE IMPOUNDMENT"