

SENATE BILL NO. 59

INTRODUCED BY S. BROWN

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
January 15, 1981	Committee recommend bill do pass. Report adopted.
January 16, 1981	Bill printed and placed on members' desks.
January 17, 1981	Second reading, do pass.
January 19, 1981	Considered correctly engrossed.
January 20, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

January 21, 1981	Introduced and referred to Committee on Agriculture.
January 29, 1981	Referred to Committee on Water.
March 2, 1981	Committee recommend bill be concurred in. Report adopted.
March 3, 1981	Second reading, concurred in.
March 5, 1981	Third reading, concurred in. Yeas, 86; Nays, 8.

IN THE SENATE

March 6, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 SENATE BILL NO. 59
 2 INTRODUCED BY S. BROWN
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 85-2-306, MCA, TO PROVIDE THAT THE EXEMPTION FOR A STOCK
 6 WATERING PIT OF LESS THAN 15 ACRE-FEET APPLIES ONLY IF THE
 7 PARCEL ON WHICH THE IMPOUNDMENT IS TO BE CONSTRUCTED IS 40
 8 ACRES IN SIZE OR LARGER; AND TO PROVIDE RETROACTIVE
 9 APPLICATION."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 85-2-306, MCA, is amended to read:
 13 "85-2-306. Exceptions to permit requirements. (1)
 14 Outside the boundaries of a controlled groundwater area, a
 15 permit is not required before appropriating groundwater by
 16 means of a well with a maximum yield of less than 100
 17 gallons a minute. Within 60 days of completion of the well
 18 and appropriation of the groundwater for beneficial use, the
 19 appropriator shall file notice of completion on a form
 20 provided by the department at its offices and at the offices
 21 of the county clerk and recorders. Upon receipt of the
 22 notice, the department shall automatically issue a
 23 certificate of water right. The original of the certificate
 24 shall be sent to the county clerk and recorder in the county
 25 where the point of diversion or place of use is located for

1 recordation. The department shall keep a copy of the
 2 certificate in its office in Helena. After recordation, the
 3 clerk and recorder shall send the certificate to the
 4 appropriator. The date of filing of the notice of completion
 5 is the date of priority of the right.

6 (2) A permit is not required before constructing an
 7 impoundment or pit and appropriating water for use by
 8 livestock if the maximum capacity of the impoundment or pit
 9 is less than 15 acre-feet, and the appropriation is from a
 10 source other than a perennial flowing stream, ~~and the~~
 11 ~~impoundment or pit is to be constructed on and will be~~
 12 ~~accessible to a parcel of land that is owned or under the~~
 13 ~~control of the applicant and that is 40 acres or larger.~~ As
 14 used in this subsection, a perennial flowing stream means a
 15 stream which historically has flowed continuously at all
 16 seasons of the year, during dry as well as wet years.
 17 However, before constructing the impoundment or pit, the
 18 appropriator shall apply for a permit as prescribed by this
 19 part. If the department determines after processing the
 20 application that the rights of other appropriators have been
 21 or will be adversely affected, it may require the applicant
 22 to modify the construction of the impoundment or pit and
 23 issue the permit subject to such terms, conditions,
 24 restrictions, or limitations it considers necessary to
 25 protect the rights of other appropriators.

-2- INTRODUCED BILL
 SB59

LC 0416/01

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

4 Section 2. Application. This act applies to
5 applications pending with the department on the effective
6 date of this act, as well as applications filed with the
7 department after the effective date of this act.

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

SENATE BILL NO. 59

INTRODUCED BY S. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 85-2-306, MCA, TO PROVIDE THAT THE EXEMPTION FOR A STOCK WATERING PIT OF LESS THAN 15 ACRE-FEET APPLIES ONLY IF THE PARCEL ON WHICH THE IMPOUNDMENT IS TO BE CONSTRUCTED IS 40 ACRES IN SIZE OR LARGER; AND TO PROVIDE RETROACTIVE APPLICATION."

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 appropriation is from a source other than a perennial flowing stream, ~~and the impoundment or pit is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger.~~ 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 constructing the impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. If the department determines after processing the application that the rights of other appropriators have been or will be adversely affected, it may require the applicant to modify the construction of the impoundment or pit and issue the permit subject to such terms, conditions, restrictions, or limitations it considers necessary to protect the rights of other appropriators.

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1 (3) A person may also appropriate water without
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SB 0059/02

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