

Senate Bill 297

In The Senate

January 27, 1981	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 13, 1981	Committee recommend bill do pass.
February 14, 1981	Bill printed and placed on members' desks.
February 16, 1981	Second reading do pass.
February 17, 1981	Correctly engrossed.
February 18, 1981	Third reading passed.

In The House

February 19, 1981	Introduced and referred to Committee on Water.
March 24, 1981	Committee recommend bill not concurred.

In The Senate

March 25, 1981	Returned from House not concurred.
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Amended BILL NO. 297
Terrazas

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE "SURFACE WATER" AND TO AMEND THE DEFINITION OF "GROUNDWATER"; AMENDING SECTIONS 85-2-102 AND 85-2-501, MCA."

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

Section 1. Section 85-2-102, MCA, is amended to read:

"85-2-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

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

(2) "Beneficial use", unless otherwise provided, means a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses.

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

(4) "Certificate" means a certificate of water right issued by the department.

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(5) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

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

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

(8) "Groundwater" means any water within the zone of saturation of an aquifer or any underground geological structure or formation, beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and ~~which is not part of that surface water aquifer or underground geological structure or formation is capable of yielding usable amounts of water to a well or wells.~~

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

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

(11) "Political subdivision" means any county,

1 incorporated city or town, public corporation, or district
 2 created pursuant to state law or other public body of the
 3 state empowered to appropriate water but not a private
 4 corporation, association, or group.

5 (12) "Slurry" means a mixture of water and insoluble
 6 material.

7 ~~(13) "Surface water" means all water of the state which~~
 8 ~~is on the outer face of the land, including but not limited~~
 9 ~~to any lake, river, stream, creek, undeveloped spring,~~
 10 ~~natural seepage, or other natural source of water on the~~
 11 ~~outer face of the land, any diversion or impoundment~~
 12 ~~thereof, and any impoundment of flood or waste waters in a~~
 13 ~~reservoir.~~

14 ~~(14)~~(14) "Waste" means the unreasonable loss of water
 15 through the design or negligent operation of an
 16 appropriation or water distribution facility or the
 17 application of water to anything but a beneficial use.

18 ~~(15)~~(15) "Water" means all water of the state, surface
 19 and subsurface, regardless of its character or manner of
 20 occurrence, including but not limited to geothermal water,
 21 diffuse surface water, and sewage effluent.

22 ~~(16)~~(16) "Water division" means a drainage basin as
 23 defined in 3-7-102.

24 ~~(17)~~(17) "Water judge" means a judge as provided for in
 25 Title 3, chapter 7.

1 ~~(17)~~(18) "Water master" means a master as provided for
 2 in Title 3, chapter 7.

3 ~~(18)~~(19) "Well" means any artificial opening or
 4 excavation in the ground, however made, by which groundwater
 5 is sought or can be obtained or through which it flows under
 6 natural pressures or is artificially withdrawn."

7 Section 2. Section 85-2-501, MCA, is amended to read:
 8 "85-2-501. Definitions. Unless the context requires
 9 otherwise, in this part the following definitions apply:

10 (1) "Aquifer" means any underground geological
 11 structure or formation which is capable of yielding water or
 12 is capable of recharge.

13 (2) "Bureau" means the Montana state bureau of mines
 14 and geology provided for in 20-25-211.

15 (3) "Groundwater" means any fresh water within the
 16 zone of saturation of an aquifer or any underground
 17 geological structure or formation, beneath the land surface
 18 or beneath the bed of a stream, lake, reservoir, or other
 19 body of surface water, and which ~~is not a part of that~~
 20 surface-water aquifer or underground geological structure or
 21 formation is capable of yielding usable amounts of water to
 22 a well or wells.

23 (4) "Groundwater area" means an area which, as nearly
 24 as known facts permit, may be designated so as to enclose a
 25 single and distinct body of groundwater, which shall be

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1 described horizontally by surface description in all cases
2 and which may be limited vertically by describing known
3 geological formations should conditions dictate this to be
4 desirable."

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

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Sen. Turner BILL NO. 297
Turner

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

Section 1. Section 85-2-102, MCA, is amended to read:

"85-2-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

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

(2) "Beneficial use", unless otherwise provided, means a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses.

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

(4) "Certificate" means a certificate of water right issued by the department.

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(5) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

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

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

(8) "Groundwater" means any water within the zone of saturation of an aquifer or any underground geological structure or formation, beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water, and which ~~is not part of that surface water~~ aquifer or underground geological structure or formation is capable of yielding usable amounts of water to a well or wells.

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

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

(11) "Political subdivision" means any county,

1 incorporated city or town, public corporation, or district
2 created pursuant to state law or other public body of the
3 state empowered to appropriate water but not a private
4 corporation, association, or group.

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6 material.

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23 ~~defined in 3-7-102.~~

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25 ~~Title 3, chapter 7.~~

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7 Section 2. Section 85-2-501, MCA, is amended to read:
8 "85-2-501. Definitions. Unless the context requires
9 otherwise, in this part the following definitions apply:

10 (1) "Aquifer" means any underground geological
11 structure or formation which is capable of yielding water or
12 is capable of recharge.

13 (2) "Bureau" means the Montana state bureau of mines
14 and geology provided for in 20-25-211.

15 (3) "Groundwater" means any fresh water within the
16 zone of saturation of an aquifer or any underground
17 geological structure or formation, beneath the land surface
18 or beneath the bed of a stream, lake, reservoir, or other
19 body of surface water, and which ~~is not a part of that~~
20 surface-water aquifer or underground geological structure or
21 formation is capable of yielding usable amounts of water to
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23 (4) "Groundwater area" means an area which, as nearly
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1 described horizontally by surface description in all cases
2 and which may be limited vertically by describing known
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4 desirable."

-End-

-5- SB 297

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 2 INTRODUCED BY *Turnage*

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