

HOUSE BILL NO. 365

INTRODUCED BY ROSE

IN THE HOUSE

JANUARY 27, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
FEBRUARY 12, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1993	PRINTING REPORT.
	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 15, 1993	ENGROSSING REPORT.
FEBRUARY 16, 1993	THIRD READING, PASSED. AYES, 66; NOES, 34.
FEBRUARY 17, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 24, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 26, 1993	SECOND READING, CONCURRED IN.
MARCH 27, 1993	THIRD READING, CONCURRED IN. AYES, 46; NOES, 2.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
APRIL 2, 1993	SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 5, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 365
2 INTRODUCED BY ROSE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLOSING THE TETON RIVER
5 BASIN TO FURTHER CONSUMPTIVE APPROPRIATIONS, EXCEPT
6 APPROPRIATIONS FOR GROUND WATER, CERTAIN STORAGE PROJECTS,
7 AND DOMESTIC, MUNICIPAL, AND STOCK USES; NULLIFYING CERTAIN
8 WATER RESERVATIONS IN THE TETON RIVER BASIN; AND PROVIDING
9 AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW SECTION. Section 1. Definitions. Unless the
13 context requires otherwise, in [sections 1 through 3], the
14 following definitions apply:
15 (1) "Application" means an application for a beneficial
16 water use permit pursuant to 85-2-302 or a water reservation
17 pursuant to 85-2-316.
18 (2) "Ground water" means water that is beneath the land
19 surface or beneath the bed of a stream, lake, reservoir, or
20 other body of surface water and that is not immediately or
21 directly connected to surface water.
22 (3) "Nonconsumptive use" means a beneficial use of
23 water that does not cause a reduction in the source of
24 supply and in which substantially all of the water returns
25 without delay to the source of supply, causing little or no

1 disruption in stream conditions.
2 (4) "Teton River basin" means the drainage area of the
3 Teton River and its tributaries above the confluence of the
4 Teton and Marias Rivers.
5 NEW SECTION. Section 2. Basin closure -- exceptions.
6 (1) As provided in 85-2-319 and subject to the provisions of
7 subsection (2), the department or the board may not process
8 or grant an application for a permit to appropriate water or
9 for a reservation to reserve water within the Teton River
10 basin.
11 (2) The provisions of subsection (1) do not apply to:
12 (a) an application for a permit to appropriate ground
13 water;
14 (b) an application for a permit to appropriate water
15 for a nonconsumptive use;
16 (c) an application for a permit to appropriate water
17 for domestic, municipal, or stock use;
18 (d) an application to store water during high spring
19 flows; or
20 (e) emergency temporary appropriations as provided for
21 in 85-2-113(3).
22 NEW SECTION. Section 3. Certain reservations of no
23 force and effect. In accordance with the board's reservation
24 order of June 30, 1992, the water reservations granted to
25 the department of health and environmental sciences and the

1 department of fish, wildlife, and parks in the upper
2 Missouri River basin under 85-2-316 are of no force and
3 effect in the Teton River basin.

4 NEW SECTION. Section 4. Codification instruction.
5 [Sections 1 through 3] are intended to be codified as an
6 integral part of Title 85, chapter 2, part 3, and the
7 provisions of Title 85, chapter 2, part 3, apply to
8 [sections 1 through 3].

9 NEW SECTION. Section 5. Applicability. [This act]
10 applies to all applications received by the department of
11 natural resources and conservation after [the effective date
12 of this act].

13 NEW SECTION. Section 6. Effective date. [This act] is
14 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0365, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: This bill proposes a legislative closure for the Teton River Drainage Basin, No. 41-0, including its tributaries, mainly in Teton and Chouteau Counties and a small portion of southeastern Pondera County. The closure would prohibit the Department of Natural Resources and Conservation from receiving and processing any applications for consumptive, beneficial use of surface water except for domestic, municipal, stock or stored water during high spring flows or temporary emergency appropriations. It also nullifies those certain water reservations granted on June 30, 1992 by the Board of Natural Resources and Conservation to the Departments of Fish, Wildlife and Parks and Health and Environmental Sciences.

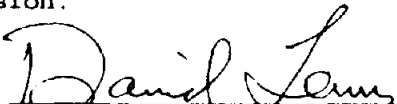
ASSUMPTIONS:

1. This proposed bill essentially closes the basin to any consumptive surface water permit applications.
2. The Department of Natural Resources and Conservation (DNRC) received applications for and issued 28 surface water permits in the Teton River Drainage Basin, No. 41-0, between July 1, 1973 and January 28, 1993, as follows: 7 stock, 17 irrigation, 1 domestic, 2 commercial, and 1 fish and wildlife. Of the 28 permits, 27 were issued between 1974 and 1984.
3. Only one surface water permit was issued during the 9 year period from 1984 to 1993. This single permit was issued for a commercial use at a rate of 90 GPM not to exceed 11.93 acre-feet of water per year.
4. The drastic reduction in applications for permits for surface water use in the Teton Basin during the past ten years is due to the fact that adequate flows of water do not exist on a reliable basis to justify any monetary investment to develop a water project. This reduction is also due to the Havre Water Resources Regional Office informing potential applicants of the water availability status in the basin which has convinced them that they would most likely not be successful in obtaining a consumptive water use permit from a surface water source.
5. Should HB0365 be enacted, the DNRC workload in the Teton River Basin would essentially remain the same.
6. The Departments of Fish, Wildlife and Parks and Health and Environmental Sciences would be unable to implement the instream flow program granted by the Board of Natural Resources final order establishing water reservations above Fort Peck Dam.

FISCAL IMPACT: None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: The Board of Natural Resources final order also states that conservation districts reservations in the basin for which a development plan has not been submitted and approved shall have no force and effect. (See note below)

TECHNICAL NOTES: New Section 3 specifies that water reservations of the DHES and DFWP will have no force and effect upon closure of the basin. The section fails to include the Teton County and the Choteau County conservation districts in this exclusion.

 2-2-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-2-93
JOHN ROSE, PRIMARY SPONSOR DATE

Fiscal Note for HB0365, as introduced

HB 365

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 365

INTRODUCED BY ROSE

A BILL FOR AN ACT ENTITLED: "AN ACT CLOSING THE TETON RIVER BASIN TO FURTHER CONSUMPTIVE APPROPRIATIONS, EXCEPT APPROPRIATIONS FOR GROUND WATER, CERTAIN STORAGE PROJECTS, AND DOMESTIC, MUNICIPAL, AND STOCK USES; NULLIFYING--CERTAIN WATER--RESERVATIONS--IN-THE-TETON-RIVER-BASIN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Definitions.** Unless the context requires otherwise, in [sections 1 through-3 AND 2], the following definitions apply:

(1) "Application" means an application for a beneficial water use permit pursuant to 85-2-302 or a water reservation pursuant to 85-2-316.

(2) "Ground water" means water that is beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water and that is not immediately or directly connected to surface water.

(3) "Nonconsumptive use" means a beneficial use of water that does not cause a reduction in the source of supply and in which substantially all of the water returns without delay to the source of supply, causing little or no

disruption in stream conditions.

(4) "Teton River basin" means the drainage area of the Teton River and its tributaries above the confluence of the Teton and Marias Rivers.

NEW SECTION. **Section 2. Basin closure -- exceptions.**

(1) As provided in 85-2-319 and subject to the provisions of subsection (2), the department or the board may not process or grant an application for a permit to appropriate water or for a reservation to reserve water within the Teton River basin.

(2) The provisions of subsection (1) do not apply to:

(a) an application for a permit to appropriate ground water;

(b) an application for a permit to appropriate water for a nonconsumptive use;

(c) an application for a permit to appropriate water for domestic, municipal, or stock use;

(d) an application to store water during high spring flows; or

(e) emergency temporary appropriations as provided for in 85-2-113(3).

~~NEW SECTION. Section 3. Certain reservations of no force and effect in accordance with the board's reservation order of June 30, 1992, the water reservations granted to the department of health and environmental sciences and the~~

department--of--fishy--wildlife--and--parks--in--the--upper
Missouri-River-basin-under-85-2-316--are--of--no--force--and
effect-in-the-Teton-River-basin.

NEW SECTION. Section 3. Codification instruction.
[Sections 1 through-3 AND 2] are intended to be codified as
an integral part of Title 85, chapter 2, part 3, and the
provisions of Title 85, chapter 2, part 3, apply to
[sections 1 through-3 AND 2].

NEW SECTION. Section 4. Applicability. [This act]
applies to all applications received by the department of
natural resources and conservation after [the effective date
of this act].

NEW SECTION. Section 5. Effective date. [This act] is
effective on passage and approval.

-End-

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supply and in which substantially all of the water returns without delay to the source of supply, causing little or no disruption in stream conditions.

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(d) an application to store water during high spring flows; or

(e) emergency temporary appropriations as provided for in 85-2-113(3).

~~NEW SECTION. Section 3. Certain reservations of no force and effect, in accordance with the board's reservation~~



order-of-June-30,1992,-the-water--reservations--granted--to
the--department-of-health-and-environmental-sciences-and-the
department--of--fish,-wildlife--and--parks--in--the--upper
Missouri-River-basin-under-85-2-316--are--of--no--force--and
effect-in-the-Teton-River-basin.

NEW SECTION. SECTION 3. CERTAIN RESERVATIONS OF NO
FORCE AND EFFECT. IN ACCORDANCE WITH THE BOARD'S RESERVATION
ORDER OF JUNE 30, 1992, THE WATER RESERVATIONS GRANTED TO
VARIOUS ENTITIES HAVE NO FORCE AND EFFECT IN THE TETON RIVER
BASIN FOR THE PERIOD OF TIME AND FOR ANY CLASS OF USES FOR
WHICH PERMIT APPLICATIONS ARE PRECLUDED UNDER [SECTIONS 1
AND 2].

NEW SECTION. Section 4. Codification instruction.
[Sections 1 through--3 AND-2 THROUGH 3] are intended to be
codified as an integral part of Title 85, chapter 2, part 3,
and the provisions of Title 85, chapter 2, part 3, apply to
[sections 1 through-3 AND-2 THROUGH 3].

NEW SECTION. Section 5. Applicability. [This act]
applies to all applications received by the department of
natural resources and conservation after [the effective date
of this act].

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effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 24, 1993

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 365 (first reading copy -- blue), respectfully report that House Bill No. 365 be amended as follows and as so amended be concurred in.

Signed: Don Bianchi
Senator Don Bianchi, Chair

That such amendments read:

1. Title, lines 8 and 9.

Strike: "NULLIFYING" on line 8 through ";" on line 9

2. Page 3, lines 6 through 12.

Strike: section 3 in its entirety

Renumber: subsequent sections

3. Page 3, lines 14 and 17.

Strike: "THROUGH 3"

Insert: "and 2"

-END-

Amd. Coord.
Sec. of Senate

Hockett
Senator Carrying Bill

SENATE
HB 365
661038SC.San

HOUSE BILL NO. 365

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A BILL FOR AN ACT ENTITLED: "AN ACT CLOSING THE TETON RIVER BASIN TO FURTHER CONSUMPTIVE APPROPRIATIONS, EXCEPT APPROPRIATIONS FOR GROUND WATER, CERTAIN STORAGE PROJECTS, AND DOMESTIC, MUNICIPAL, AND STOCK USES; ~~NULLIFYING--CERTAIN WATER--RESERVATIONS--IN--THE--TETON--RIVER--BASIN; NULLIFYING CERTAIN-WATER-RESERVATIONS-IN-THE--TETON--RIVER--BASIN;~~ AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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(e) emergency temporary appropriations as provided for in 85-2-113(3).

~~NEW-SECTION--Section-3--Certain---reservations--of--no--force-and-effect--in--accordance-with-the-board's-reservation~~

1 order-of-June-307-19927-the-water--reservations--granted--to
 2 the--department-of-health-and-environmental-sciences-and-the
 3 department--of--fish--wildlife--and--parks--in--the--upper
 4 Missouri-River-basin-under-85-2-316--are--of--no--force--and
 5 effect-in-the-Teton-River-basin.

6 ~~NEW SECTION. SECTION 3. CERTAIN RESERVATIONS OF NO~~
 7 ~~FORCE AND EFFECT. IN ACCORDANCE WITH THE BOARD'S RESERVATION~~
 8 ~~ORDER OF JUNE 307-19927, THE WATER RESERVATIONS GRANTED TO~~
 9 ~~VARIOUS ENTITIES HAVE NO FORCE AND EFFECT IN THE TETON RIVER~~
 10 ~~Basin--FOR--THE PERIOD OF TIME AND FOR ANY CLASS OF USES FOR~~
 11 ~~WHICH PERMIT APPLICATIONS ARE PRECLUDED UNDER--{SECTIONS--1~~
 12 ~~AND-2}.~~

13 NEW SECTION. Section 3. Codification instruction.
 14 [Sections 1 through-3 AND-2 THROUGH-3 AND 2] are intended to
 15 be codified as an integral part of Title 85, chapter 2, part
 16 3, and the provisions of Title 85, chapter 2, part 3, apply
 17 to [sections 1 through-3 AND-2 THROUGH-3 AND 2].

18 NEW SECTION. Section 4. Applicability. [This act]
 19 applies to all applications received by the department of
 20 natural resources and conservation after [the effective date
 21 of this act].

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