

SENATE BILL 172

Introduced by Devlin, et al.

1/16 Introduced
1/16 Referred to Natural Resources
1/16 First Reading
1/16 Fiscal Note Requested
1/23 Fiscal Note Received
1/26 Fiscal Note Printed
2/05 Hearing
2/10 Committee Report--Bill Passed as Amended
2/11 2nd Reading Passed
2/12 3rd Reading Passed

Transmitted to House
2/23 Referred to Natural Resources
2/23 First Reading
3/26 Hearing
3/29 Committee Report--Bill Concurred as
Amended
3/30 2nd Reading Concur Motion/Failed

1 *Senate* BILL NO. 172
2 INTRODUCED BY *Sen. Nelson*
3 *Sen. Nelson*
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EXCEPTIONS
5 TO GROUND WATER PERMIT REQUIREMENTS UNDER THE MONTANA WATER
6 USE LAWS; AMENDING SECTION 85-2-306, MCA; AND PROVIDING AN
7 EFFECTIVE DATE."
8

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

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

11 "85-2-306. (Temporary) Exceptions to permit
12 requirements -- fee. (1) Ground water may be appropriated
13 only by a person who has a possessory interest in the
14 property where the water is to be put to beneficial use and
15 exclusive property rights in the ground water development
16 works or, if another person has rights in the ground water
17 development works, the written consent of the person with
18 those property rights. Outside the boundaries of a
19 controlled ground water area, a permit is not required
20 before appropriating ground water by means of a well or
21 developed spring with a maximum appropriation of 35 gallons
22 per minute or less, not to exceed 10 acre-feet per year,
23 except that a combined appropriation from the same source
24 from two or more wells or developed springs exceeding this
25 limitation requires a permit. Within 60 days of completion

1 of the well or developed spring and appropriation of the
2 ground water for beneficial use, the appropriator shall file
3 a notice of completion with the department on a form
4 provided by the department at its offices and at the offices
5 of the county clerk and recorders and pay a filing fee. Upon
6 receipt of the notice, the department shall review the
7 notice and may, before issuing a certificate of water right,
8 return a defective notice for correction or completion,
9 together with the reasons for returning it. A notice does
10 not lose priority of filing because of defects if the notice
11 is corrected, completed, and refiled with the department
12 within 30 days or within a further time as the department
13 may allow, not to exceed 6 months. If a notice is not
14 corrected and completed within the time allowed, the
15 priority date of appropriation ~~shall~~--be is the date of
16 refiling a correct and complete notice with the department.
17 A certificate of water right may not be issued until a
18 correct and complete notice has been filed with the
19 department. The original of the certificate ~~shall~~ must be
20 sent to the appropriator. The department shall keep a copy
21 of the certificate in its office in Helena. The date of
22 filing of the notice of completion is the date of priority
23 of the right.

24 (2) An appropriator of ground water by means of a well
25 or developed spring first put to beneficial use between

1 January 1, 1962, and July 1, 1973, who did not file a notice
 2 of completion, as required by laws in force prior to April
 3 14, 1981, with the county clerk and recorder shall file a
 4 notice of completion, as provided in subsection (1) of this
 5 section, with the department to perfect the water right. The
 6 filing of a claim of existing water right pursuant to
 7 85-2-221 is sufficient notice of completion under this
 8 subsection. The priority date of the appropriation ~~shall~~--be
 9 is the date of the filing of a notice as provided in
 10 subsection (1) of this section or the date of the filing of
 11 the claim of existing water right. An appropriation under
 12 this subsection is an existing right, and a permit is not
 13 required; however, the department shall acknowledge the
 14 receipt of a correct and complete filing of a notice of
 15 completion, except that for an appropriation of 35 gallons
 16 per minute or less, not to exceed 10 acre-feet per year, the
 17 department shall issue a certificate of water right. If a
 18 certificate is issued under this section, a certificate need
 19 not be issued under the adjudication proceedings provided
 20 for in 85-2-236.

21 (3) A permit is not required before constructing an
 22 impoundment or pit and appropriating water for use by
 23 livestock if the maximum capacity of the impoundment or pit
 24 is less than 15 acre-feet and the appropriation is less than
 25 30 acre-feet per year and is from a source other than a

1 perennial flowing stream and the impoundment or pit is to be
 2 constructed on and will be accessible to a parcel of land
 3 that is owned or under the control of the applicant and that
 4 is 40 acres or larger. As used in this subsection, a
 5 perennial flowing stream means a stream which historically
 6 has flowed continuously at all seasons of the year, during
 7 dry as well as wet years. However, within 60 days after
 8 constructing the impoundment or pit, the appropriator shall
 9 apply for a permit as prescribed by this part. Upon receipt
 10 of a correct and complete application for a stockwater
 11 provisional permit, the department shall then automatically
 12 issue a provisional permit. If the department determines
 13 after a hearing that the rights of other appropriators have
 14 been or will be adversely affected, it may revoke the permit
 15 or require the permittee to modify the impoundment or pit
 16 and may then make the permit subject to such terms,
 17 conditions, restrictions, or limitations it considers
 18 necessary to protect the rights of other appropriators.

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

22 (5) In addition to the filing fee prescribed by the
 23 board by rule pursuant to 85-2-113, a person filing a notice
 24 under subsection (1) shall pay a \$10 fee, and the department
 25 shall deposit \$10 of each filing fee collected pursuant to

subsection (1) in the ground water assessment account, established in 85-2-905, within the state special revenue fund. (Terminates July 1, 1993--sec. 22, Ch. 769, L. 1991.)

85-2-306. (Effective July 1, 1993) Exceptions to permit requirements. (1) Ground water may be appropriated only by a person who has a possessory interest in the property where the water is to be put to beneficial use and exclusive property rights in the ground water development works or, if another person has rights in the ground water development works, the written consent of the person with those property rights. Outside the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring with a maximum appropriation of 35 less than 100 gallons per minute or ~~less, not to exceed 10 acre-feet per year, except that a combined appropriation from the same source from two or more wells or developed springs exceeding this limitation requires a permit.~~ Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department 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 review the notice and may, before issuing a certificate of water right, return a defective notice for

correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days or within a further time as the department may allow, not to exceed 6 months. If a notice is not corrected and completed within the time allowed, the priority date of appropriation ~~shall~~ be is the date of refiled a correct and complete notice with the department. A certificate of water right may not be issued until a correct and complete notice has been filed with the department. The original of the certificate ~~shall~~ must be sent to the appropriator. The department shall keep a copy of the certificate in its office in Helena. The date of filing of the notice of completion is the date of priority of the right.

(2) An appropriator of ground water by means of a well or developed spring first put to beneficial use between January 1, 1962, and July 1, 1973, who did not file a notice of completion, as required by laws in force prior to April 14, 1981, with the county clerk and recorder shall file a notice of completion, as provided in subsection (1) of this section, with the department to perfect the water right. The filing of a claim of existing water right pursuant to 85-2-221 is sufficient notice of completion under this subsection. The priority date of the appropriation ~~shall be~~

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 2 subsection (1) of this section or the date of the filing of
 3 the claim of existing water right. An appropriation under
 4 this subsection is an existing right, and a permit is not
 5 required; however, the department shall acknowledge the
 6 receipt of a correct and complete filing of a notice of
 7 completion, except that for an appropriation of 35 less than
 8 100 gallons per minute ~~or less; not to exceed 10 acre-feet~~
 9 ~~per-year~~, the department shall issue a certificate of water
 10 right. If a certificate is issued under this section, a
 11 certificate need not be issued under the adjudication
 12 proceedings provided for in 85-2-236.

13 (3) A permit is not required before constructing an
 14 impoundment or pit and appropriating water for use by
 15 livestock if the maximum capacity of the impoundment or pit
 16 is less than 15 acre-feet and the appropriation is less than
 17 30 acre-feet per year and is from a source other than a
 18 perennial flowing stream and the impoundment or pit is to be
 19 constructed on and will be accessible to a parcel of land
 20 that is owned or under the control of the applicant and that
 21 is 40 acres or larger. As used in this subsection, a
 22 perennial flowing stream means a stream which historically
 23 has flowed continuously at all seasons of the year, during
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 8 and may then make the permit subject to such terms,
 9 conditions, restrictions, or limitations it considers
 10 necessary to protect the rights of other appropriators.

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

14 NEW SECTION. Section 2. Effective date. [This act] is
 15 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0172, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: The bill proposes to revise Section 85-2-306 (1) and (2) MCA, by increasing the groundwater permit exception limit from a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year to a maximum appropriation of less than 100 gallons per minute. It also proposes to eliminate the provision concerning a "combined" appropriation of groundwater.

ASSUMPTIONS:


1. The present fee for a groundwater permit application (Form No. 600) over 35 gpm or 10 AF is \$100, plus \$1.00 per acre-foot.
2. The present fee for a Notice of Completion of groundwater (Form No. 602) of 35 gpm or less, not to exceed 10 AF/yr is \$25. The water rights appropriation account receives \$15 of this fee and \$10 goes to the Montana Bureau of Mines and Geology for the Groundwater Assessment Program.
3. Allowing a Form No. 602 to be filed, where the law now requires a Form No. 600, creates a situation where revenue is reduced by \$85 for each groundwater project. ($\$100 - \$15 = \$85$)
4. Between July 1, 1991 and December 31, 1992 the Department of Natural Resources and Conservation (DNRC) received 52 permit applications, Form No. 600, for wells withdrawing between 36 and 99 gallons per minute. For this 18 month period the average permit applications received per month would be 2.89. For a 12 month period an average of 35 would be received.
5. 35 permit applications (Form 600) times \$100 = \$3,500 for a 12 month period. If these 35 were not required to file for a permit, but could simply file a Form 602 DNRC would receive \$15 times 35 = \$525. During a one year period on the average the fee revenue loss would be \$2,975.
6. DNRC will be required to revise and republish five separate forms if the above amendment should pass.
7. DNRC would also need to revise the Board rule related to the filing forms and eliminate the rule definition for "combined appropriation".

FISCAL IMPACT: There would be an average annual fee loss to the water rights appropriation account of \$2,975.

Expenditures:

1. Approximately \$620 would be spent by DNRC to revise and republish five separate forms.
2. At a minimum, \$140 would be spent by DNRC to amend the Board rules to coincide with the proposed amendment (Secretary of State publication fees).
3. These expenditures (1 and 2 above) would essentially offset any savings realized by eliminating publication costs for the lost permit applications.

(continued on next page)

 1-23-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/26/93
GERRY DEVLIN, PRIMARY SPONSOR DATE

Fiscal Note for SB0172, as introduced

SB172

Revenues: The water rights appropriation account would receive approximately \$2,975 less in filing fee revenue each year, if this bill is enacted.

Net Impact: A revenue loss of approximately \$2,975 per year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: A loss of fee revenue in the water right state special revenue fund of approximately \$2,975 each year.

SB 172

APPROVED BY COMM. ON
NATURAL RESOURCES

SENATE BILL NO. 172

INTRODUCED BY DEVLIN, ZOOK, L. NELSON, TOEWS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EXCEPTIONS TO GROUND WATER PERMIT REQUIREMENTS UNDER THE MONTANA WATER USE LAWS; AMENDING SECTION 85-2-306, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION STREAMLINE THE GROUND WATER PERMITTING PROCESS, PARTICULARLY FOR GROUND WATER DEVELOPMENT FROM 35 GALLONS UP TO 100 GALLONS PER MINUTE, IN ORDER TO REDUCE THE LENGTH OF TIME REQUIRED TO RECEIVE A PERMIT.

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. (Temporary) Exceptions to permit requirements -- fee. (1) Ground water may be appropriated only by a person who has a possessory interest in the property where the water is to be put to beneficial use and exclusive property rights in the ground water development works or, if another person has rights in the ground water development works, the written consent of the person with

those property rights. Outside the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, except that a combined appropriation from the same source from two or more wells or developed springs exceeding this limitation requires a permit. Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department on a form provided by the department at its offices and at the offices of the county clerk and recorders and pay a filing fee. Upon receipt of the notice, the department shall review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days or within a further time as the department may allow, not to exceed 6 months. If a notice is not corrected and completed within the time allowed, the priority date of appropriation shall--be is the date of refileing a correct and complete notice with the department. A certificate of water right may not be issued until a

1 correct and complete notice has been filed with the
2 department. The original of the certificate shall must be
3 sent to the appropriator. The department shall keep a copy
4 of the certificate in its office in Helena. The date of
5 filing of the notice of completion is the date of priority
6 of the right.

7 (2) An appropriator of ground water by means of a well
8 or developed spring first put to beneficial use between
9 January 1, 1962, and July 1, 1973, who did not file a notice
10 of completion, as required by laws in force prior to April
11 14, 1981, with the county clerk and recorder shall file a
12 notice of completion, as provided in subsection (1) of this
13 section, with the department to perfect the water right. The
14 filing of a claim of existing water right pursuant to
15 85-2-221 is sufficient notice of completion under this
16 subsection. The priority date of the appropriation shall--be
17 is the date of the filing of a notice as provided in
18 subsection (1) of this section or the date of the filing of
19 the claim of existing water right. An appropriation under
20 this subsection is an existing right, and a permit is not
21 required; however, the department shall acknowledge the
22 receipt of a correct and complete filing of a notice of
23 completion, except that for an appropriation of 35 gallons
24 per minute or less, not to exceed 10 acre-feet per year, the
25 department shall issue a certificate of water right. If a

1 certificate is issued under this section, a certificate need
2 not be issued under the adjudication proceedings provided
3 for in 85-2-236.

4 (3) A permit is not required before constructing an
5 impoundment or pit and appropriating water for use by
6 livestock if the maximum capacity of the impoundment or pit
7 is less than 15 acre-feet and the appropriation is less than
8 30 acre-feet per year and is from a source other than a
9 perennial flowing stream and the impoundment or pit is to be
10 constructed on and will be accessible to a parcel of land
11 that is owned or under the control of the applicant and that
12 is 40 acres or larger. As used in this subsection, a
13 perennial flowing stream means a stream which historically
14 has flowed continuously at all seasons of the year, during
15 dry as well as wet years. However, within 60 days after
16 constructing the impoundment or pit, the appropriator shall
17 apply for a permit as prescribed by this part. Upon receipt
18 of a correct and complete application for a stockwater
19 provisional permit, the department shall then automatically
20 issue a provisional permit. If the department determines
21 after a hearing that the rights of other appropriators have
22 been or will be adversely affected, it may revoke the permit
23 or require the permittee to modify the impoundment or pit
24 and may then make the permit subject to such terms,
25 conditions, restrictions, or limitations it considers

necessary to protect the rights of other appropriators.

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

(5) In addition to the filing fee prescribed by the board by rule pursuant to 85-2-113, a person filing a notice under subsection (1) shall pay a \$10 fee, and the department shall deposit \$10 of each filing fee collected pursuant to subsection (1) in the ground water assessment account, established in 85-2-905, within the state special revenue fund. (Terminates July 1, 1993--sec. 22, Ch. 769, L. 1991.)

85-2-306. (Effective July 1, 1993) Exceptions to permit requirements. (1) Ground water may be appropriated only by a person who has a possessory interest in the property where the water is to be put to beneficial use and exclusive property rights in the ground water development works or, if another person has rights in the ground water development works, the written consent of the person with those property rights. Outside the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring with a maximum appropriation of ~~35 less-than-100~~ 35 gallons per minute or ~~less, not-to-exceed-10-acre-feet-per-year--except--that--a~~ combined-appropriation-from-the-same-source-from-two-or-more wells---or---developed-springs---exceeding---this---limitation

~~requires-a-permit~~ OR LESS, NOT TO EXCEED 10 ACRE-Feet PER YEAR, EXCEPT THAT A COMBINED APPROPRIATION FROM THE SAME SOURCE FROM TWO OR MORE WELLS OR DEVELOPED SPRINGS EXCEEDING THIS LIMITATION REQUIRES A PERMIT. TWO OR MORE GROUND WATER DEVELOPMENTS CONSTITUTE A COMBINED APPROPRIATION IF THE DEVELOPMENTS ARE FROM THE SAME-SOURCE AQUIFER AND ARE PHYSICALLY MANIFOLDED TO A COMMON SYSTEM. Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department 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 review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days or within a further time as the department may allow, not to exceed 6 months. If a notice is not corrected and completed within the time allowed, the priority date of appropriation shall-be is the date of refileing a correct and complete notice with the department. A certificate of water right may not be issued until a correct and complete notice has been filed with the department. The original of the

certificate shall must be sent to the appropriator. The department shall keep a copy of the certificate in its office in Helena. The date of filing of the notice of completion is the date of priority of the right.

(2) An appropriator of ground water by means of a well or developed spring first put to beneficial use between January 1, 1962, and July 1, 1973, who did not file a notice of completion, as required by laws in force prior to April 14, 1981, with the county clerk and recorder shall file a notice of completion, as provided in subsection (1) of this section, with the department to perfect the water right. The filing of a claim of existing water right pursuant to 85-2-221 is sufficient notice of completion under this subsection. The priority date of the appropriation shall be is the date of the filing of a notice as provided in subsection (1) of this section or the date of the filing of the claim of existing water right. An appropriation under this subsection is an existing right, and a permit is not required; however, the department shall acknowledge the receipt of a correct and complete filing of a notice of completion, except that for an appropriation of 35 ~~less than~~ 100 35 gallons per minute or ~~less; not to exceed 10~~ acre-feet-per-year OR LESS, NOT TO EXCEED 10 ACRE-FEET PER YEAR, the department shall issue a certificate of water right. If a certificate is issued under this section, a

certificate need not be issued under the adjudication proceedings provided for in 85-2-236.

(3) 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 less than 30 acre-feet per year and 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, 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 a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the permit or require the permittee to modify the impoundment or pit and may then make the permit subject to such terms, conditions, restrictions, or limitations it considers necessary to protect the rights of other appropriators.

1 (4) A person may also appropriate water without
2 applying for or prior to receiving a permit under rules
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4 NEW SECTION. **Section 2.** Effective date. [This act] is
5 effective July 1, 1993.

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those property rights. Outside the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, except that a combined appropriation from the same source from two or more wells or developed springs exceeding this limitation requires a permit. Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department on a form provided by the department at its offices and at the offices of the county clerk and recorders and pay a filing fee. Upon receipt of the notice, the department shall review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days or within a further time as the department may allow, not to exceed 6 months. If a notice is not corrected and completed within the time allowed, the priority date of appropriation shall--be is the date of refileing a correct and complete notice with the department. A certificate of water right may not be issued until a

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~~DEVELOPMENTS CONSTITUTE A COMBINED APPROPRIATION IF THE~~
~~DEVELOPMENTS ARE FROM THE SAME-SOURCE AQUIFER AND ARE~~
~~PHYSICALLY MANIFOLDED TO A COMMON SYSTEM.~~ Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department 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 review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days or within a further time as the department may allow, not to exceed 6 months. If a notice is not corrected and completed within the time allowed, the priority date of appropriation ~~shall-be~~ is the date of refiling a correct and complete notice with the department. A certificate of water right may not be issued until a correct and complete notice has been filed with the department. The original of the

certificate shall must be sent to the appropriator. The department shall keep a copy of the certificate in its office in Helena. The date of filing of the notice of completion is the date of priority of the right.

(2) An appropriator of ground water by means of a well or developed spring first put to beneficial use between January 1, 1962, and July 1, 1973, who did not file a notice of completion, as required by laws in force prior to April 14, 1981, with the county clerk and recorder shall file a notice of completion, as provided in subsection (1) of this section, with the department to perfect the water right. The filing of a claim of existing water right pursuant to 85-2-221 is sufficient notice of completion under this subsection. The priority date of the appropriation shall be is the date of the filing of a notice as provided in subsection (1) of this section or the date of the filing of the claim of existing water right. An appropriation under this subsection is an existing right, and a permit is not required; however, the department shall acknowledge the receipt of a correct and complete filing of a notice of completion, except that for an appropriation of 95 less than 100 35 gallons per minute or ~~less~~ not to exceed 10 acre-feet ~~per year~~ OR LESS, NOT TO EXCEED 10 ACRE-FEET PER YEAR, the department shall issue a certificate of water right. If a certificate is issued under this section, a

certificate need not be issued under the adjudication proceedings provided for in 85-2-236.

(3) 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 less than 30 acre-feet per year and 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, 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 a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the permit or require the permittee to modify the impoundment or pit and may then make 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 (4) 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 NEW SECTION. Section 2. Effective date. [This act] is
5 effective July 1, 1993.

-End-

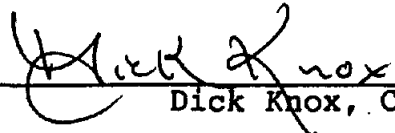
HOUSE STANDING COMMITTEE REPORT

March 29, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 172 (third reading copy -- blue) be concurred in as amended.

Signed: _____


Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Foster

1. Page 1, lines 12 and 13.

Strike: "PARTICULARLY," on line 12 through "MINUTE," on line 13

2. Page 5, line 22.

Strike: "35 gallons per minute"

3. Page 6, line 1.

Strike: "OR LESS, NOT TO EXCEED"

4. Page 7, line 21.

Strike: "of"

5. Page 7, line 22.

Strike: "35 gallons per minute"

6. Page 7, line 23.

Strike: "OR LESS,"

Committee Vote:
Yes 11, No 5.

HOUSE
SB 172