

SENATE BILL NO. 282

INTRODUCED BY SWYSGOOD, TASH

IN THE SENATE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 22, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 11, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1993	SECOND READING, CONCURRED IN.
MARCH 16, 1993	THIRD READING, CONCURRED IN. AYES, 96; NOES, 3.
MARCH 17, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 18, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *282*  
 2 INTRODUCED BY *Supposed TASH*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLOSING THE JEFFERSON  
 5 RIVER BASIN AND MADISON RIVER BASIN TO FURTHER CONSUMPTIVE  
 6 APPROPRIATIONS, EXCEPT APPROPRIATIONS FOR GROUND WATER,  
 7 CERTAIN STORAGE PROJECTS, AND DOMESTIC, MUNICIPAL, AND STOCK  
 8 USES; NULLIFYING CERTAIN WATER RESERVATIONS IN THE JEFFERSON  
 9 RIVER BASIN AND MADISON RIVER BASIN; AND PROVIDING AN  
 10 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

13 NEW SECTION. **Section 1.** Definitions. Unless the  
 14 context requires otherwise, in [sections 1 through 3], the  
 15 following definitions apply:

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

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

23 (3) "Jefferson River basin" means the drainage area of  
 24 the Jefferson River and its tributaries above the confluence  
 25 of the Jefferson and Missouri Rivers.

1 (4) "Madison River basin" means the drainage area of  
 2 the Madison River and its tributaries above the confluence  
 3 of the Madison and Jefferson Rivers.

4 (5) "Nonconsumptive use" means a beneficial use of  
 5 water that does not cause a reduction in the source of  
 6 supply and in which substantially all of the water returns  
 7 without delay to the source of supply, causing little or no  
 8 disruption in stream conditions.

9 NEW SECTION. **Section 2.** Basin closure -- exceptions.  
 10 (1) As provided in 85-2-319 and subject to the provisions of  
 11 subsection (2) of this section, the department or the board  
 12 may not process or grant an application for a permit to  
 13 appropriate water or for a reservation to reserve water  
 14 within the Jefferson River basin or Madison River basin.

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

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

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

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

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

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

1        NEW SECTION.    **Section 3.**    Certain    reservations    of    no  
2    force and effect. In accordance with the board's reservation  
3    order of June 30, 1992, the water    reservations    granted    to  
4    the    department    of    health    and    environmental    sciences    and    the  
5    department    of    fish,    wildlife,    and    parks    in    the    upper  
6    Missouri River basin under 85-2-316    are    of    no    force    and  
7    effect in the Jefferson River basin or Madison River basin.

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

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

17       NEW SECTION.    **Section 6.**    Effective    date. [This act] is  
18   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 SB0282, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION: This bill proposes a permanent legislative closure for the Jefferson River Drainage Basin (41G) and Madison River Drainage Basin (41F) and their respective tributaries, located in southwestern Montana. The closure would prohibit the Department or Board of Natural Resources and Conservation from processing or granting any applications for beneficial water use permits for consumptive surface water uses or applications for reserved water. The closure would not apply to permit applications for groundwater; nonconsumptive uses; permit applications for domestic, municipal or stock uses; water stored 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.

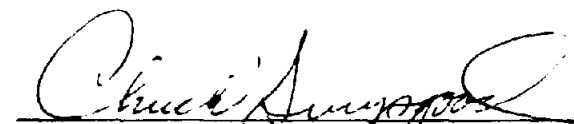
ASSUMPTIONS:

1. This proposed bill essentially closes the two sub-basins to any consumptive surface water permit or reserved water applications with certain exceptions.
2. In the two sub-basins the Department of Natural Resources and Conservation (DNRC) received and issued 48 (61%) consumptive and 31 (39%) nonconsumptive surface water permits during the period July 1, 1973 to January 29, 1993 for an annual average of 4 per year.
3. For the past three calendar years (1990-91 and 92) DNRC issued 0 (0%) consumptive and 7 (100%) nonconsumptive surface water permits for an average per year for this three year period of 2.3.
4. In the calendar year 1992, DNRC issued only one nonconsumptive permit in the closure area, which is .2% of the total water use permits issued state wide in 1992.
5. Should the bill be enacted, the DNRC workload in the Jefferson and Madison River Drainage Basins (41G) and (41F) would essentially remain the same as it has during the past three years.
6. The bill closes the Jefferson and Madison river basins to further consumptive appropriations and nullifies the Department of Fish, Wildlife and Parks and the Department of Health and Environmental Sciences instream flow reservations in those basins, which were granted by the Board of Natural Resources and Conservation on June 30, 1992. The investment of staff time and financial resources over many years would be negated.

FISCAL IMPACT:

None

 2-6-93  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

 2-9-93  
CHUCK SWYSGOOD, PRIMARY SPONSOR DATE

Fiscal Note for SB0282, as introduced

SB 282

APPROVED BY COMM. ON  
NATURAL RESOURCES

## SENATE BILL NO. 282

INTRODUCED BY SWYSGOOD, TASH

A BILL FOR AN ACT ENTITLED: "AN ACT CLOSING THE JEFFERSON RIVER BASIN AND MADISON 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 JEFFERSON RIVER BASIN AND MADISON 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], 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) "Jefferson River basin" means the drainage area of the Jefferson River and its tributaries above the confluence of the Jefferson and Missouri Rivers.

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

(5) "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.

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

(1) As provided in 85-2-319 and subject to the provisions of subsection (2) of this section, 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 Jefferson River basin or Madison 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) temporary emergency appropriations as provided for in 85-2-113(3).

1       ~~NEW SECTION. Section 3. Certain reservations of no~~  
2       ~~force and effect, in accordance with the board's reservation~~  
3       ~~order of June 30, 1992, the water reservations granted to~~  
4       ~~the department of health and environmental sciences and the~~  
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6       ~~Missouri River basin under 85-2-316 are of no force and~~  
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8       NEW SECTION. Section 3. Codification instruction.  
9       [Sections 1 through-3 AND 2] are intended to be codified as  
10      an integral part of Title 85, chapter 2, part 3, and the  
11      provisions of Title 85, chapter 2, part 3, apply to  
12      [sections 1 through-3 AND 2].

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

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