

HOUSE BILL NO. 497

INTRODUCED BY C. CLARK

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A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE PROHIBITION ON PERMITS TO APPROPRIATE AND CONSUME MORE THAN 4,000 ACRE-FEET OF WATER ANNUALLY; AND AMENDING SECTION 85-2-301, MCA."

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

Section 1. Section 85-2-301, MCA, is amended to read:

"85-2-301. Right to appropriate -- recognition and confirmation of permits issued after July 1, 1973. (1) After July 1, 1973, a person may not appropriate water except as provided in this chapter. A person may appropriate water only for a beneficial use.

(2) (a) Only the department may appropriate water by permit ~~in either of the following instances:~~

~~—— (i) for transport outside the following river basins:~~

~~(A)(i) the Clark Fork River and its tributaries to its confluence with Lake Pend Oreille in Idaho;~~

~~(B)(ii) the Kootenai River and its tributaries to its confluence with Kootenay Lake in British Columbia;~~

~~(C)(iii) the St. Mary River and its tributaries to its confluence with the Oldman River in Alberta;~~

~~(D)(iv) the Little Missouri River and its tributaries to its confluence with Lake Sakakawea in North Dakota;~~

~~(E)(v) the Missouri River and its tributaries to its confluence with the Yellowstone River in North Dakota;~~

and

~~(F)(vi) the Yellowstone River and its tributaries to its confluence with the Missouri River in North Dakota;~~

or

~~—— (ii) whenever water in excess of 4,000 acre-feet a year and 5.5 cubic feet per second, for any use, is to be consumed.~~

~~(b) Water for these purposes or in these amounts may be leased from the department by any person~~

The department may lease water subject to this subsection (2) under the provisions of 85-2-141.

(3) A right to appropriate water may not be acquired by any other method, including by adverse use, adverse possession, prescription, or estoppel. The method prescribed by this chapter is exclusive.

(4) All permit actions of the department after July 1, 1973, are recognized and confirmed subject to this

1 part and any terms, conditions, and limitations placed on a permit by the department."

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