

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AQUATIC ECOSYSTEM PROTECTIONS TO PROHIBIT
5 MINING AND WATER IMPOUNDMENT ACTIVITIES ALONG THE UPPER YELLOWSTONE RIVER;
6 PROVIDING EXCEPTIONS; PROVIDING DEFINITIONS; AND AMENDING SECTION 75-7-111, MCA."

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8 WHEREAS, the Upper Yellowstone River Task Force was established by the Executive Order of Montana
9 Governor Marc Racicot in November 1997 and continued by the Executive Order of Governor Judy Martz to
10 develop a shared understanding of the issues and competing values and uses that impact the Upper Yellowstone
11 River; and

12 WHEREAS, the Upper Yellowstone River Task Force was made up of a wide cross section of local area
13 citizens and local, state, and federal agency representatives who met regularly for a period of more than 5 years;
14 and

15 WHEREAS, the Task Force appointed a technical advisory committee whose role was to assist the task
16 force by offering scientific guidance, develop an integrated research program, and evaluate research proposals
17 and results; and

18 WHEREAS, all final recommendations of the Task Force were established using a consensus process,
19 assuring unanimous agreement of the members; and

20 WHEREAS, two of the Task Force's final recommendations were to prohibit mining and mining-related
21 dredging in the active bankfull of the Upper Yellowstone River and to prohibit the construction of a flood control
22 dam and impoundment on the mainstream of the Upper Yellowstone River; and

23 WHEREAS, the Upper Yellowstone River remains essential to Montanans who live along it to provide
24 water for agricultural and for domestic and commercial purposes; and

25 WHEREAS, the legislature values the hard work and recommendations of the Upper Yellowstone River
26 Task Force.

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

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30 **Section 1.** Section 75-7-111, MCA, is amended to read:



1 **"75-7-111. Notice of project.** (1) A person planning to engage in a project shall present written notice
2 of the proposed project to the supervisors before any portion of the project takes place.

3 (2) The notice must include the location, general description, and preliminary plan of the project.

4 (3) At the time of filing a notice of the proposed project under subsection (1), the applicant may sign an
5 arbitration agreement as provided in 75-7-117.

6 (4) The district may authorize a representative to accept notices of proposed projects.

7 (5) (a) Except as provided in subsection (5)(b), a person may not present notice and the supervisors may
8 not approve any project that involves mining or mining-related dredging in the bankfull of the upper Yellowstone
9 River, or a dam and impoundment in the upper Yellowstone River.

10 (b) This prohibition does not include:

11 (i) mining and mining-related dredging of sand or gravel if the sand or gravel is a byproduct of bank
12 stabilization, flood control, or maintenance of irrigation structures and canals; or

13 (ii) bank stabilization projects or maintenance of existing irrigation diversion dams.

14 (6) For the purpose of subsection (5), the following definitions apply:

15 (a) "Bankfull" means the transition between the stream channel and the flood plain beyond which the
16 stream is flooding.

17 (b) "Upper Yellowstone River" means the distance from the headwaters in Yellowstone national park to
18 the confluence with Mission Creek."

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- END -