

HOUSE JOINT RESOLUTION NO. 29

INTRODUCED BY C. KNUDSEN, J. DOOLING, B. LER, J. BERGSTROM, M. YAKAWICH, R. KNUDSEN, E.  
BUTCHER

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF STOCK WATER RIGHTS ON TAYLOR GRAZING ACT LANDS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 69TH LEGISLATURE.

WHEREAS, Taylor Grazing Act lands refer to certain lands managed by the Bureau of Land Management of the United States Department of the Interior; and

WHEREAS, the Bureau of Land Management does not have federally reserved water rights for Taylor Grazing Act lands; and

WHEREAS, water rights on Taylor Grazing Act lands are state-based water rights; and

WHEREAS, most Taylor Grazing Act lands fall within a state or federal grazing district; and

WHEREAS, access to stock water on Taylor Grazing Act lands is critical to the success of ranchers that lease these lands and for the continued viability of eastern Montana agriculture; and

WHEREAS, Montana case law recognizes that an individual can own water rights on federal land; and

WHEREAS, the Montana Water Use Act of 1973 did not provide a clear path for ranchers to file stock water rights associated with Taylor Grazing Act-authorized federal grazing district allotments; and

WHEREAS, the Montana Legislature exempted most stock water from claim filing requirements, and the former Department of State Lands discouraged and refused to accept claim filings; and

WHEREAS, federal ownership of stock water rights may put those rights at risk of abandonment through nonuse; and

WHEREAS, the Montana Legislature should protect range stock water rights for Montana ranchers, as federal ownership of stock water rights when the federal government has no interest in the watering of stock may threaten the existence of those rights and may endanger the Montana livestock and agriculture industries, rural communities, and ultimately all Montanans.

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2 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF  
3 THE STATE OF MONTANA:

4 That the Legislative Council be requested to designate an appropriate interim committee or statutory  
5 committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine issues related to  
6 the administration and exercise of stock water rights on Taylor Grazing Act lands, including evaluations of:

7 (1) the data and records management system employed by the Department of Natural Resources  
8 and Conservation as it relates to claims of water rights filed on Taylor Grazing Act lands;

9 (2) the amount and type of livestock owned by the federal government and where the livestock are  
10 grazed or located in the state;

11 (3) how other western states have administered stock water rights on Taylor Grazing Act lands,  
12 specifically issues of abandonment and nonuse;

13 (4) claims and water rights of the Bureau of Land Management on Taylor Grazing Act lands,  
14 including the number, type, flow rate, and volume of the associated claims or rights;

15 (5) entities who have filed claims for water rights where the place of use is located on Taylor  
16 Grazing Act lands, including the number, type, flow rate, and volume of the claims;

17 (6) instances where both a private entity and the Bureau of Land Management have filed claims or  
18 water rights on the same Taylor Grazing Act lands;

19 (7) case law regarding the site-specific analysis associated with the determination of ownership of  
20 water rights located on Taylor Grazing Act lands;

21 (8) the relationship between the federal land management agency and its lessee, permittees, and  
22 users of Taylor Grazing Act lands;

23 (9) the effect of stock water use on downstream users; and

24 (10) the legal basis for the federal government to hold stock water rights on Taylor Grazing Act  
25 lands.

26 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be  
27 presented to and reviewed by an appropriate committee designated by the Legislative Council.

28 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review

1 requirements, be concluded prior to September 15, 2024.

2 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,

3 comments, or recommendations of the appropriate committee, be reported to the 69th Legislature.

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