

STATE OF MONTANA  
BEFORE THE DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION

IN THE MATTER OF APPLICATION )  
 )  
FOR BENEFICIAL WATER USE PERMIT ) FINDINGS OF FACT, CONCLUSIONS  
 )  
FILED BY LAURENCE S. BIRD ) OF LAW AND ORDER  
 )  
APPLICATION NO. 32-s41E )

The proposed findings of fact, conclusions of law and order  
in this matter, issued January 30, 1974, are hereby adopted as the  
final findings of fact, conclusions of law and order.

Done this 10<sup>th</sup> day of May, 1974.

*James Ferris*  
Administrator, Water Resources Division

**CASE # 32**

BEFORE THE MONTANA DEPARTMENT OF  
NATURAL RESOURCES AND CONSERVATION

IN THE MATTER OF APPLICATION )  
OF LAURENCE S. BIRD, NO. 32-s41E )

PROPOSED FINDINGS OF FACT  
CONCLUSIONS OF LAW AND ORDER

Pursuant to the provisions of the Montana Water Use Act, Section 89-265 et seq, R.C.M. 1947, after due notice, a public hearing was held December 17, 1973 at the Jefferson County Courthouse at Eoulder, Montana, for the purpose of hearing objections to the above-named application for beneficial water use permit. The applicant did not appear, nor was he represented at the hearing. Delbert M. Bullock of Basin, Montana, appeared as an objector to the application.

PROPOSED FINDINGS OF FACT

1. On July 24, 1973, Laurence S. Bird duly filed with the Department of Natural Resources and Conservation, Water Resources Division, an application for beneficial water use permit to appropriate 0.10 cubic feet of water per second for placer mining purposes from an unnamed tributary to Basin Creek in Jefferson County, Montana in the NWNE $\frac{1}{4}$  of Section 36, T.8N, R.6W.

2. On October 16, 1973, Delbert M. Bullock of Basin, Montana, on behalf of the Basin Water Company, filed an objection to the above-named application, requesting that the proposed appropriation be made "without prejudice to Basin Water Co.," and that "the water may not be contaminated or diminished."

3. Basin Creek is a source of water supply for the residents of the town of Basin, Montana.

4. By letter dated November 30, 1973, from A. W. Clarkson, P.E., State Department of Health and Environmental Sciences, Water Quality Bureau, also objected to the above-named application. The objection letter stated that pursuant to the provisions of Chapter 49 of Title 69, R.C.M. 1947, "the Board of Health has general supervision of all state waters which are directly or indirectly being used by a person for a public water supply or domestic purposes or a source of ice." "Since Basin Creek is a community water source for the Town of Basin, "Any activity which may impair the quality of water for drinking or domestic purposes must be curtailed, unless adequate provisions have been made to prevent degradation."

PROPOSED CONCLUSIONS OF LAW

1. No objectors to the application herein have produced evidence sufficient to warrant denial of the application.

2. Regulation of the quality of the water in Basin Creek comes within the lawful jurisdiction of the Department of Health and Environmental Sciences of the State of Montana.

PROPOSED ORDER

Pursuant to the above findings of fact and conclusions of law and the record of the hearing held upon this matter, it is ordered that the permit to appropriate water, if granted upon the application herein, be conditioned upon the permittee's compliance with the requirements and regulations of the Department of Health and Environmental Sciences regarding the water quality of Basin Creek. NOTICE: This is a proposed order and it will become final when accepted by the Administrator of the Water Resources Division, Montana Department of Natural Resources and Conservation. Written exceptions to the proposed order shall be filed with the Department within 20 days of service upon the parties herein. Upon receipt of any written exceptions, opportunity will be provided to file briefs and to make oral argument before the Administrator of the Water Resources Division.

January 2, 1974

Date

[Signature]  
Hearing Examiner

**CASE # 3**