

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW




June 2016

**Water Resource Division
Water Rights Bureau
1424 9th Avenue
P.O. Box 201601
Helena, Montana 59620-1601**

<http://dnrc.mt.gov/divisions/water/water-rights>
for questions call (406) 444-6614

TABLE OF CONTENTS

Project Description	1
Municipal Reservations	2
Yellowstone Final Order	3
Lower Missouri Final Order.....	5
Upper Missouri Final Order	6
Conservation District Reservations	8
Yellowstone Final Order	9
Lower Missouri Final Order	10
Upper Missouri Final Order	11
State & Federal Reservations	11
Yellowstone Final Order	12
Upper Missouri Final Order	13
 <u>Appendix A, (Yellowstone Municipal Reservations)</u>	14
• Big Timber	15
• Billings	19
• Broadus	23
• Columbus	26
• Glendive	30
• Laurel	33
• Livingston	36
• Miles City	40
<u>Appendix B, (Lower Missouri Municipal Reservations)</u>	43
• Circle	44
• Culbertson	47
• Ekalaka	51
• Fort Peck	54
• Havre	57
• Malta	59
• Plentywood	62
• Poplar	65
• Scobey	67
• Wibaux	71
• Wolf Point	73

<u>Appendix C, (Upper Missouri Municipal Reservations)</u>	76
• Belgrade	77
• Bozeman	82
• Chester	93
• Cut Bank	94
• East Helena	96
• Fairfield	100
• Fort Benton	104
• Great Falls	106
• Helena	111
• Lewistown	116
• Shelby	120
• Three Forks	125
• West Yellowstone	130
• Winifred	136
<u>Appendix D, (Yellowstone Conservation District Reservations)</u>	139
• Big Horn Conservation District	140
• Carbon Conservation District	144
• Custer County Conservation District	147
• Dawson County Conservation District	150
• Little Beaver Conservation District	153
• Park County Conservation District	156
• Powder River Conservation District	159
• Prairie County Conservation District	162
• Richland County Conservation District	165
• Rosebud Conservation District	168
• Stillwater Conservation District	171
• Sweet Grass Conservation District	174
• Treasure Conservation District	177
• Yellowstone Conservation District	180
<u>Appendix E, (Lower Missouri Conservation District Reservations)</u>	183
• Blaine County Conservation District	184
• Carter County Conservation District	186
• Daniels County Conservation District	188
• Liberty County Conservation District	190
• Little Beaver Conservation District	193

• McCone County Conservation District	195
• Richland County Conservation District	198
• Roosevelt County Conservation District	201
• Sheridan County Conservation District	204
• Valley County Conservation District	207
• Wibaux County Conservation District	210
<u>Appendix F, (Upper Missouri Conservation District Reservations)</u>	212
• Broadwater Conservation District	213
• Cascade County Conservation District	214
• Choteau County Conservation District	217
• Fergus County Conservation District	220
• Gallatin County Conservation District	223
• Glacier County Conservation District	224
• Jefferson Valley Conservation District	227
• Judith Basin Conservation District	228
• Lewis & Clark Conservation District	231
• Liberty County Conservation District	232
• Lower Musselshell Conservation District	235
• Pondera County Conservation District	238
• Teton County Conservation District	241
• Toole County Conservation District	244
• Valley County Conservation District	247
<u>Appendix G, (State & Federal Reservations)</u>	250
• State of Montana, Trust Lands	251
• State of Montana, Dept. of Natural Resources, (DNRC)	254
• Bureau of Reclamation	257
• Bureau of Land Management & Montana State Lands	263
• Bureau of Reclamation	265

Project Description:

The 2015 Montana Legislature enacted Senate Bill 330 which directed the Department of Natural Resources and Conservation (DNRC) to conduct a 10–year review of existing state water reservations as outlined in Administrative Rules of Montana, (ARM), 36.16.120 by July 1, 2016 and provide a report to the Water Policy Interim Committee before September 15, 2016. These rules require that each reservant submit a report reviewing the objectives of the reservation, how these are being met, and provide information which the DNRC will use to assess the ongoing need for the reservation.

On October 14, 2015 the DNRC sent a contact letter to each of the entities holding a reservation subject to review. The deadline for submission of the requested information was December 31, 2015. The DNRC compiled a list of questions, accompanying this letter, titled “Water Reservation Questionnaire” to help identify and answer the specific requirements outlined in ARM, 36.16.120. DNRC will consider the completed questionnaire a “report” as contemplated by the rules.

ARM 36.16.120 reads:

“Except for reservations for the purposes of maintaining a minimum flow, level, or quality of water or a reservation provided in 85-20-1401, MCA, the department shall review water reservations at least once every ten years to determine if the objectives of the reservation are being met..”

The bulk of all water reservations in Montana, (including all that require review through this order), are associated with the following three Final Orders issued by the State of Montana Board of Natural Resources and Conservation, (now the DNRC).

- Yellowstone Final Order (Issued December 15, 1978)
- The Upper Missouri Final Order (Issued July 1, 1992)
- The Lower Missouri Final Order (Issued December 30, 1994)

Water reservations created through these Orders include reservations to

maintain instream flow for fisheries, municipal reservations, reservations for irrigation, and reservations for multi-purpose use (chiefly large storage reservoirs). Instream reservation holders were not required to submit reports through SB330 as these reservations were considered perfected by statute. Municipal, irrigation, and multi-purpose reservations were all required to submit a response to the DNRC request for information and are the subject of this report.

Municipal Reservations:

Table 1 provides the volume awarded each municipality through the three Final Orders and the amount currently put to use:

Table 1 – Summary of Use – Municipal Reservations

Yellowstone Reservations					
Reservation #	Municipality	Volume Granted	Volume In Use	Volume Remaining	% in Use
847600	Big Timber	365 AF/YR	0	365 AF/YR	0
964600	Billings	53,550 AF/YR	0	53,550 AF/YR	0
995300	Broadus	605 AF/YR	45 AF/YR	560 AF/YR	7.4
993700	Columbus	883 AF/YR	334 AF/YR	549 AF/YR	37.8
993800	Glendive	3,281 AF/YR	0	3,281 AF/YR	0
993900	Laurel	7,151 AF/YR	244 AF/YR	6,907 AF/YR	3.4
994000	Livingston	4,510 AF/YR	0	4,510 AF/YR	0
995400	Miles City	2,889 AF/YR	0	2,889 AF/YR	0
Lower Missouri Reservations					
Reservation #	Municipality	Volume Granted	Volume In Use	Volume Remaining	% in Use
8449200	Circle	78 AF/YR	0	78 AF/YR	0
7764600	Culbertson	365 AF/YR	365 AF/YR	0	100
8448500	Ekalaka	20 AF/YR	0	20 AF/YR	0
7774900	Fort Peck	100 AF/YR	0	100 AF/YR	0
8448600	Havre	475 AF/YR	0	475 AF/YR	0
8448300	Malta	137 AF/YR	0	137 AF/YR	0
8449100	Plentywood	235 AF/YR	0	235 AF/YR	0
8448800	Poplar	448 AF/YR	0	448 AF/YR	0
7764700	Scobey	168 AF/YR	0	168 AF/YR	0
8448400	Wibaux	75 AF/YR	0	75 AF/YR	0
8448200	Wolf Point	504 AF/YR	0	504 AF/YR	0

Table 1 – Summary of Use – Municipal Reservations (continued)

Upper Missouri Reservations					
Reservation #	Municipality	Volume Granted	Volume In Use	Volume Remaining	% in Use
7011900	Belgrade	645 AF/YR	565 AF/YR	80 AF/YR	88
7011800	Bozeman	609 AF/YR	0	609 AF/YR	0
7258300	Chester	340 AF/YR	0	340 AF/YR	0
7257800	Cut Bank	400 AF/YR	0	400 AF/YR	0
7189500	East Helena	258 AF/YR	0	258 AF/YR	0
7215400	Fairfield	325 AF/YR	0	325 AF/YR	0
7188900	Fort Benton	124 AF/YR	0	124 AF/YR	0
7189000	Great Falls	6,489 AF/YR	6,418 AF/YR	71 AF/YR	99
7258100	Helena	7,071 AF/YR	19.73 AF/YR	7,051.27 AF/YR	0.3
7258400	Lewistown	1,247 AF/YR	0	1,247 AF/YR	0
7189100	Shelby	161 AF/YR	0	161 AF/YR	0
7011700	Three Forks	81 AF/YR	0	81 AF/YR	0
7011500	West Yellowstone	1922 AF/YR	0	1,922	0
7199800	Winifred	161 AF/YR	0	161 AF/YR	0

As is evident from the data outlined in Table 1 the anticipated use for almost all of the municipal reservations has not been achieved. Historically each of the individual municipalities have relied on existing water rights and, when these are insufficient, appropriation of additional volume was achieved through provisional permits and groundwater certificates. Additionally, the tabulated data highlights the disparity in awarded volume for the individual reservations. The Yellowstone Final Order, (1978), awarded substantially greater volume than did either the Lower Missouri Final Order, (1994), or the Upper Missouri Final Order, (1992).

Yellowstone Final Order, (1978):

Eight municipalities were granted a water reservation through the Yellowstone Final Order. In the 38 years since the Final Order only three of the eight municipalities have used any portion of their reservation. For a detailed review of the individual reservations see Appendix A.

Statements of Claim for each of the eight municipalities represent significant quantities of water and were not required to be filed until April 30, 1982, well after the issue date of the Final Order. Additionally, rather than using reserved

water, five of the eight municipalities opted to file for additional water rights through the DNRC after they were issued their respective water reservation. Unique to the municipal reservations in the Yellowstone Final Order is a condition that reads as follows:

“The reservation is intended to run concurrently with and overlap, rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation.”

The intent of this language appears to limit the ability of a municipality holding a reservation to apply for a new water right until their reservation has been put to use. In practice, this condition has not been implemented.

During the application process 250 gallons per person per day was commonly used to determine the projected future municipal use. Based on this estimate all eight of the municipalities that were issued a water reservation through the Yellowstone Final Order have municipal water rights that exceed their current municipal needs in terms of both flow and volume. Table 2 provides the volume associated with existing municipal water rights for each of the cities issued a water reservation through the Yellowstone Final Order without including the volume awarded through their reservation.

Table 2 – Estimated 2013 Use vs. Existing Water Rights

City	2013 Population	Estimated Volume In Use AF/YR (2013)	Existing Municipal Water Rights AF/YR
Big Timber	1,650	462	3,366
Billings	108,869	30,487	70,435
Broadus	480	134	506.5
Columbus	1,996	559	3,014
Glendive	5,399	1,512	3,206.60
Laurel	6,936	1,942	3,525.00
Livingston	7,245	2,029	10,084
Miles City	8,758	2,453	3,661

*250 gallons per person per day estimate.

Finally, as awarded, each municipality in the Yellowstone Final Order had an assigned perfection date. In 1997 the legislature passed HB 507 which eliminated the perfection dates for all of the municipal and conservation district reservations created through the Yellowstone Final Order and extended the deadline indefinitely.

Lower Missouri Final Order, (1994):

Eleven municipalities were granted a water reservation through the Lower Missouri Final Order. In the 22 years since the Final Order only one of the eleven municipalities have used any portion of their reservation. Four of the eleven municipalities opted to file for additional water rights through the DNRC after they were issued their respective water reservation. For a detailed review of the individual reservations see Appendix B.

During the application process 250 gallons per person per day was commonly used to determine the projected future municipal use. Based on this estimate all eleven of the municipalities that were issued a water reservation through the Lower Missouri Final Order have municipal water rights that meet or exceed the current need in terms of both flow and volume. Table 3 provides the volume associated with existing municipal water rights for each of the cities issued a water reservation through the Lower Missouri Final Order without including the volume awarded through their reservation.

Table 3 – Estimated 2013 Use vs. Existing Water Rights

City	3013 Population	Estimated Volume AF/YR (2013)*	Existing Municipal Water Rights AF/YR
Circle	609	171	1,279
Culbertson	794	222	257.35
Ekalaka	345	97	367.52
Fort Peck	244	68	1,500
Havre	9,792	2742	3,531.00
Malta	1,970	552	862.50
Plentywood	1,918	537	1,888

Table 3 – Estimated 2013 Use vs. Existing Water Rights (Continued)

City	3013 Population	Estimated Volume AF/YR (2013)*	Existing Municipal Water Rights AF/YR
Poplar	876	245	1,881
Scobey	1,052	295	1,453
Wibaux	655	183	535
Wolf Point	2,835	794	2,804

*250 gallons per person per day estimate.

None of the municipal reservations in the Lower Missouri Final Order were required to meet a specific perfection date; however all stated that the reservation would be perfected by the year 2020 in their original application.

Finally, six of the eleven municipalities are within the service area for rural water projects that are either proposed or currently under construction. These projects, when completed, will provide additional water to the municipalities within their respective service areas thus reducing the need for reserved water.

Upper Missouri Final Order, (1992):

Fourteen municipalities were granted a water reservation through the Upper Missouri Final Order. In the 24 years since the Final Order three of the fourteen municipalities have utilized some portion of their reservation. Five of the fourteen municipalities opted to file for additional water rights through the DNRC after they were issued their respective water reservation. For a detailed review of the individual reservations see Appendix C.

During the application process 250 gallons per person per day was commonly used to determine the projected future municipal use. Based on this estimate thirteen of the fourteen municipalities that were issued a water reservation through the Upper Missouri Final Order have municipal water rights that meet or exceed the current need in terms of both flow and volume. Table 4 provides the volume associated with existing municipal water rights for each of the cities issued a water reservation through the Upper Missouri Final Order without including the volume awarded through their reservation. In the one exception the

only water right held by the Town of Chester is the reservation. Municipal water for the Town of Chester is provided under contract with the Bureau of Land Management.

Table 4 – Estimated 2013 Use vs. Existing Water Rights

City	3013 Population	Estimated Volume in Use AF/YR (2013)*	Existing Municipal Water Rights AF/YR
Belgrade	7,798	2184	3,147
Bozeman	41,660	11666	13,217
Chester	860	241	0
Cut Bank	2,996	839	6,757
East Helena	2,060	577	7,364
Fairfield	724	203	2,246
Fort Benton	1,490	417	913
Great Falls	59,152	16565	20,365
Helena	29,943	8385	17,392
Lewistown	5,867	1643	2,221
Shelby	3,301	924	3,292
Three Forks	1,903	533	1,090
West Yellowstone	1,322	370	3,502
Winifred	208	58	159

*250 gallons per

person per day estimate

Only the Upper Missouri Final Order currently has a perfection date for municipal reservations. This date in the Upper Missouri Order is December 31, 2025. The DNRC makes no recommendation regarding extension or removal of this deadline and only points this out in an effort to provide parity for all municipal reservations.

Finally, six of the eleven municipalities are within the service area for rural water projects that are either proposed or currently under construction. These projects, when completed, will supply all municipal water thus reducing the need for reserved water.

Conservation District Reservations:

Table 5 provides the volume awarded each conservation district through the three Final Orders and the amount currently put to use:

Table 5 – Summary of Use – Conservation District Reservations

Yellowstone Reservations					
Reservation #	Conservation Dist.	Volume Granted	Volume In Use	Volume Remaining	% in Use
995200	Big Horn CD	20,185 AF/YR	14,207 AF/YR	5,978 AF/YR	70.4
994400	Carbon County CD	22,676 AF/YR	1,424 AF/YR	21,252 AF/YR	6.3
994700	Custer County CD	28,478 AF/YR	12,730 AF/YR	15,748 AF/YR	44.7
995100	Dawson County CD	45,855 AF/YR	5,525 AF/YR	40,330 AF/YR	12
1134900	Little Beaver CD	12,733 AF/YR	1,312 AF/YR	11,421 AF/YR	10.3
1000400	Park CD	64,125 AF/YR	1,122 AF/YR	63,003 AF/YR	1.7
994300	Powder River CD	13,680 AF/YR	8,158.5 AF/YR	5,521.5 AF/YR	59.6
994600	Prairie County CD	68,467 AF/YR	8,285 AF/YR	60,182 AF/YR	12.1
994500	Richland County CD	45,620 AF/YR	5,435 AF/YR	40,185 AF/YR	11.9
1000500	Rosebud County CD	87,003 AF/YR	3,754 AF/YR	83,249 AF/YR	4.3
993500	Stillwater CD	16,755 AF/YR	1,457 AF/YR	15,298 AF/YR	8.7
994800	Sweet Grass CD	46,245 AF/YR	5,733.5 AF/YR	40,511 AF/YR	12.4
1000300	Treasure County CD	18,341 AF/YR	2,077 AF/YR	16,264 AF/YR	11.3
994900	Yellowstone CD	57,963 AF/YR	5,999 AF/YR	51,964 AF/YR	10.3
Lower Missouri Reservations					
Reservation #	Conservation Dist.	Volume Granted	Volume In Use	Volume Remaining	% in Use
8449300	Blaine County CD	10,936 AF/YR	0	10,936 AF/YR	0
8449600	Carter County CD	4,684 AF/YR	0	4,684 AF/YR	0
8449700	Daniels County CD	3,047 AF/YR	0	3,047 AF/YR	0
8449400	Liberty County CD	122 AF/YR	0	122 AF/YR	0
8449800	Little Beaver CD	1,548 AF/YR	0	1,548 AF/YR	0
84499	McCone County CD	14,299 AF/YR	3,793 AF/YR	10,506 AF/YR	26.5
8450000	Richland County CD	25,349 AF/YR	10,299 AF/YR	15,050 AF/YR	40.6
8450100	Roosevelt County CD	73,115 AF/YR	9,408 AF/YR	63,707 AF/YR	12.8
8450200	Sheridan County CD	15,479 AF/YR	4,840 AF/YR	10,639 AF/YR	31.3
8449500	Valley County CD	7,668 AF/YR	0	7,668 AF/YR	0
8450300	Wibaux County CD	1,509 AF/YR	0	1,509 AF/YR	0

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Table 5 – Summary of Use – Conservation District Reservations (Continued)

Reservation #	Conservation Dist.	Upper Missouri Reservations			
		Volume Granted	Volume In Use	Volume Remaining	% in Use
7189400	*Broadwater CD	606 AF/YR	0	606 AF/YR	0
7189300	*Cascade County CD	9,314 AF/YR	0	9,314 AF/YR	0
7230700	Choteau CD	33,123 AF/YR	2,481 AF/YR	30,642 AF/YR	7.5
7319900	Fergus County CD	3,914 AF/YR	237 AF/YR	3,677 AF/YR	6
7258700	*Gallatin CD	2,006 AF/YR	0	2,006 AF/YR	0
7168800	Glacier County CD	1,271 AF/YR	0	1,271 AF/YR	0
7189200	*Jefferson Valley CD	14,515 AF/YR	0	14,515 AF/YR	0
7196600	Judith Basin CD	731 AF/YR	0	731 AF/YR	0
7319800	*Lewis & Clarfk CD	654 AF/YR	0	654 AF/YR	0
7215300	Liberty County CD	2,002 AF/YR	0	2,002 AF/YR	0
7258800	Lower Musselshell CD	600 AF/YR	0	600 AF/YR	0
7258500	Pondera County CD	1,975 AF/YR	494 AF/YR	1,481 AF/YR	25
7257400	Teton CD	3,253 AF/YR	1,140 AF/YR	2,113	35
7258600	Toole County CD	641 AF/YR	0	641 AF/YR	0
7257600	Valley County CD	92,000 AF/YR	0	92,000 AF/YR	0

*All or a portion of the Conservation District lies within the Upper Missouri Basin Closure.

As is evident from the data outlined in Table 2 the anticipated use for almost all of the conservation district reservations has not been achieved. Additionally, the tabulated data highlights the disparity in awarded volume for the individual conservation district reservations. The Yellowstone Final Order, (1978), awarded substantially greater volume than did either the Lower Missouri Final Order, (1994), or the Upper Missouri Final Order, (1992).

Only the Upper Missouri Final Order currently has a perfection date for conservation district reservations. This date in the Upper Missouri Order is December 31, 2025. The DNRC makes no recommendation regarding extension or removal of this deadline and only points this out in an effort to provide parity for all conservation district reservations.

Yellowstone Final Order, (1978):

Fourteen conservation districts were granted a water reservation through the Yellowstone Final Order. In the 38 years since the Final Order all fourteen districts have used at least a portion of their reservation, however, only about

20% of the combined volume for all conservation district reservations issued through the Yellowstone Final Order has been put to use. For a detailed review of the individual reservations see Appendix D.

For most of the Yellowstone Basin water remains available through provisional permits. The notable exception is within areas closed through the Crow – Montana Compact and the Northern Cheyenne – Montana Compact. Water is unavailable through state issued provisional permits, (exceptions exist), within the Crow and Northern Cheyenne Reservations. Additionally, all of the Big Horn, Little Big Horn, and Pryor Creek drainages both inside and outside the Reservation boundary are closed to provisional permits. The DNRC determines that the water reservation issued through the Yellowstone Final Order is an existing water right that pre-dates the compacts and can thus be developed within the closed areas.

As awarded, each conservation district reservation in the Yellowstone Final Order had an assigned perfection date. In 1997 the legislature passed HB 507 which eliminated the perfection dates for all of the municipal and conservation district reservations created through the Yellowstone Final Order and extended the deadline indefinitely.

Lower Missouri Final Order, (1994):

Eleven conservation districts were granted a water reservation through the Lower Missouri Final Order. In the 22 years since the Final Order four of the eleven districts have used at least a portion of their reservation, however, only about 10% of the combined volume for all conservation district reservations issued through the Lower Missouri Final Order has been put to use. For a detailed review of the individual reservations see Appendix E.

In most of the Lower Missouri Basin water remains available through provisional permits. The notable exception is the Milk River basin which is closed to new appropriations through the Fort Belknap – Montana Compact. The DNRC determines that the water reservation issued through the Lower Missouri Final Order is an existing water right that pre-dates the compact and can thus be developed within the closed areas. That said, available water within the Milk

River basin is limited and the priority date of the Lower Missouri Final Order would be subject to almost continuous call.

Upper Missouri Final Order, (1992):

Fifteen conservation districts were granted a water reservation through the Upper Missouri Final Order. In the 24 years since the Final Order four of the fifteen districts have used at least a portion of their reservation, however, only about 5% of the combined volume for all conservation district reservations issued through the Upper Missouri Final Order has been put to use. For a detailed review of the individual reservations see Appendix F.

The Missouri River above Morony Dam is closed to any new appropriations of water by the 1993 Upper Missouri River Administrative Closure. Additional closures within the Upper Missouri include the Blackfeet – Montana Compact Closure and the Teton River Administrative closure. As conditioned in the Upper Missouri Final Order conservation district reservations cannot be put to use in any area closed to new appropriations. Therefore, use of reserved water to irrigate above Morony Dam is rendered null and void for all conservation district reservations. In basins below Morony Dam water remains available through provisional permits and is thus available for those conservation districts.

State & Federal Reservations

Table 3 – Summary of Use – State & Federal Reservations

Reservation #	Agency	Yellowstone Reservations			
		Volume Granted	Volume In Use	Volume Remaining	% in Use
1233000	BOR	121, 800 AF/YR	0	121, 800 AF/YR	0
1233100	BOR	68,700 AF/YR	0	68,700 AF/YR	0
1233200	BOR	539,000 AF/YR	0	539,000 AF/YR	0
1233401	BLM/ State Trust Lands	2,924 AF/YR	0	Expired	0
1233402	BLM/ State Trust Lands	17,476 AF/YR	0	Expired	0
993100	State Trust Lands	12,858 AF/YR	0	Expired	0
993300	State Trust Lands	25,890 AF/YR	0	Expired	0
993400	State Trust Lands	15,078 AF/YR	0	Expired	0
994200	DNRC	383,000 AF/YR	13,000	370,000	3.4

Table 3 – Summary of Use – State & Federal Reservations, (continued)

Upper Missouri Reservations					
Reservation #	Agency	Volume Granted	Volume In Use	Volume Remaining	% in Use
7257900	BOR	68,000 AF/YR	0	68,000 AF/YR	0

Yellowstone Final Order, (1978):

Bureau of Reclamation (BOR): The Yellowstone Final Order granted the Bureau of Reclamation reserved water for three storage reservoirs along the Yellowstone River. To date no progress has been made toward perfection of these reservoirs. In their response to the DNRC request for information the BOR cites a lack of funding as the determining factor for not having taken action toward perfection.

Bureau of Land Management (BLM) & State of Montana Trust Lands (DSL): The Yellowstone Final Order granted the Bureau of Land Management two reservations for irrigation. After a period of prolonged non-use, the BLM ceded half of these two reservations to the DSL. To date none of the reserved water has been put to use.

Both of these reservations were to be perfected by the year 2000. In their response to the DNRC request for information DSL acknowledged the fact that these reservations had expired. No response was received from the BLM.

State of Montana Trust Lands (DSL): The Yellowstone Final Order granted the State of Montana Trust Lands three reservations for irrigation. To date none of the reserved water has been put to use.

All three of these reservations were to be perfected by the year 2000. In their response to the DNRC request for information DSL acknowledged the fact that these reservations had expired.

State of Montana Department of Natural Resources and Conservation (DNRC): The Yellowstone Final Order granted the Montana Department of Natural Resources and Conservation (DNRC) a water reservation for expansion of

the existing Tongue River Reservoir. Although the reservoir was expanded through the Northern Cheyenne – Montana Compact, the expansion contemplated through the Yellowstone Water Reservation has not been completed. In their response to the DNRC request for information the State Water Projects Division cited the fact that expansion as described in the Final Order is not possible until the existing coal mines are finished mining coal which was likely at least 10 years off.

Upper Missouri Final Order, (1992):

Bureau of Reclamation (BOR): The Upper Missouri Final Order granted the Bureau of Reclamation reserved water for an irrigation project that would divert Missouri River water from a point near Virgelle Montana into a 46 mile long canal that terminates at the Milk River just up-stream of Havre Montana. To date no progress has been made toward perfection of the project. In their response to the DNRC request for information the BOR cites a lack of funding as the determining factor for not having taken action toward perfection.

Appendix A

Yellowstone Municipal Reservations

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 847600

City of Big Timber

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	365 acre-feet per year
Source:	Boulder River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Big Timber on December 31st, 2015.

Reservant Response:

Required Reporting [36.16.120]

1. **Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount granted by reservation is as stated above, .5CFS up to 365 AF per year. None of the reserved water has been allocated as of this date. The methodology used to determine that amount as originally requested remains the same, anticipated population growth and current events. However, the anticipated population originally estimated to be 3000 by the year 2000 (see Application for Reservation of Water dated May 27, 1976), did not occur. Nevertheless, the anticipated population, based on projections from the past 20 years, does justify the amount reserved. Based solely on historical trend data, the City will reach a population of 3000 in 2040 (see attached chart). However, based on current events and the anticipated success of the City's current efforts to attract industry (see responses to Questions 4 and 7 below), the City reasonably anticipates reaching a population of 3000 in 2025.

2. **Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose for the water reservation remains the same and remains valid. The original purpose for the reservation was for municipal, residential and industrial use.

3. **Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The need for the reserved water still exists. At the time of submittal of the application and issuance of the order, it was anticipated that the water right adjudication would have been completed before 2015. The adjudication is not completed and is far from completion. As such, the city of Big Timber ("City") must retain the reserved water right until the adjudication is complete and the water decreed to the City is a known quantity.

The flow rate and volume of water reserved by the City amounts to 50% of the water used in July, 2015. Simply put, anticipated residential growth in the foreseeable future could easily consume the reserved flow rate and volume. Further, the City is actively seeking industry to relocate and/or construct facilities in and around the City. The combination of residential growth and prospective industrial users necessitates and justifies the need for the reserved water granted to the City.

4. **Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount of water reserved remains appropriate. The flow rate and volume amounts to approximately 50% of the maximum flow rate and volume of water actually used by the City in July, 2015. A reservation of 50% is appropriate, and frankly should be greater, if the City is successful in attracting an industrial or commercial user, or if population continues to grow at a reasonable rate. Additionally, approximately 150 employees of Stillwater Mining Company's East Boulder mine ("Stillwater") commute to the City and are bused to the mine. If for any reason Stillwater terminated its transportation program, then the City believes that approximately 50% or more of those employees and their families would move to the City. Furthermore, as a result of the recent selection of the City to be the location of the Cowboy Hall of Fame, the City expects an influx of hotels, restaurants, and other service industries within the next 10 years to support the facility and an associated increase in tourism.

5. **Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes, the City is the sole provider of clean potable water for its citizens, businesses, and industry users. As the sole source of water for its users, the public interest demands that the City continue to make available an adequate supply and reserve of water for all uses of water.

6. **Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The City of Big Timber is in the process of compiling the requested compliance information; however, it did not want to delay this initial response. This response will be supplemented when such compliance information is in a form suitable for submission. The City expects to complete its supplement to this response in January 2016.

7. **Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Development of the reserved water has been delayed for several reasons. First, the anticipated population and industrial growth as set forth in the City's application did not materialize. Better paying jobs in the Bakken oil fields recently drew a number of residents away from the City, resulting in a temporary reduction in population. The City already is seeing a return of some of those residents as a result of the recent Bakken downturn. Second, the City implemented water conservation measures in the past that resulted in a leveling off of the demand for water. However, as a result of the dramatic Bakken downturn, the City anticipates that demand for potable water will rise. As that demand increases, the City will take the necessary steps to perfect a portion of all of the reserved water.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water remains available for future appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. The 2013 census indicates a population of 1,650 people for the City of Big Timber. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Big Timber would be 462 acre-feet per year $[(250 \text{ gallons per day})(1,650 \text{ persons})(365 \text{ days per year}) \div 325,851] = 462 \text{ acre-feet per year}$. Existing "municipal" water rights for the City of Big Timber total 3,366 acre-feet.
It appears that the City of Big Timber has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Based on this consideration, the City should not rely on the excess claims for growth.
4. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: "The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation". (page 3, paragraph 13) In the 38 years since the adoption of the reservation the City of Big Timber has applied for and received one groundwater certificate for a total of 4.35 acre-feet of water which, under the conditions cited above, should count against the total flow and volume awarded through the Final Order.

¹City of Big Timber Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
43BJ 179821	Statement of Claim	Active	7/1/1900	Irrigation	Boulder River	1.5 CFS	15
43BJ 29393 00	Statement of Claim	Active	6/25/1906	Municipal	Boulder River	125 CFS	3,366
43BJ 8476 00	Water Reservation	Active	12/15/1978	Municipal	Boulder River	0.50 CFS	365
43BJ 88890 00	Ground Water Certificate	Active	4/26/1994	Domestic Lawn & Garden	Groundwater	20 GPM	4.35

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 964600

City of Billings

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	53,550 acre-feet per year
Source:	Yellowstone River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Billings on December 28th, 2015.

Reservant Response:

Required Reporting [36.16.120]

1. Summary: Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount of the City of Billings water reservation is 53,550 acre-feet per year with a flow rate of 74 CFS. The date of the reservation is December 15, 1978 at 12:30PM.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose stated in the September 27, 1976 application for water reservation is still valid. The City of Billings is limited to the Yellowstone River to provide water to a community of over 110,000 populations. Without our ability to develop off site storage options the community is vulnerable to droughts, climate change, and the recent oil spill from oil pipelines within the river.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The needs stated in the original application are not only still valid today, but have proven to true. The City of Billings is limited to the Yellowstone River as our single water source. The City's comprehensive growth plan shows that at historical growth rates the City's population will exceed 250,000 in 20 years and may exceed that population projection in less than 15 years. Without an additional off stream storage to provide additional water supply in the summer arid months, Billings will not be able to provide potable water to our community in future years. Billings has studied our options

for ground water and Raney well systems and neither option are viable in our area. The only viable ground water in the Billings area is being generated by seasonal irrigation ditch seepage.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: With an assigned water of 172 CFS for the City of Billings, the City's population water needs will exceed our water rights when our population exceeds approximately 260,000 people. The City's comprehensive growth plan estimates this will occur in 20 years.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The City of Billings has only one source of water, the Yellowstone River. The current population of approximately 100,000 residents is dependent on the Yellowstone for domestic and commercial water. To ensure our current and future ability to supply water, we will need to augment our existing water rights of 172 CFS. The City of Billings has completed studies on ground water availability in the Billings area and off stream storage. The community's only option for additional water is from off stream storage.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The City of Billings has been developing a comprehensive strategy for the utilization of all water sources. Billings has developed a Comprehensive Growth Plan, Water Master Plan, Off Stream Storage Study, Integrated Water Plan, Storm Water Plan, Raney Well analysis, and Ground Water Study. These studies were developed to provide the City of Billings with the necessary information to adopt a long term water resource plan. The City of Billings will be developing our long term strategy for off stream storage. Billings has begun discussions with adjacent communities of Laurel and Lockwood regarding the joint development of a regional off stream storage facility.

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The City of Billings has been waiting for the determination of our water rights and comprehensive growth plan to determine the community's current and future water needs. The City of Billings is completing our Integrated Water Plan which will provide the guidance to the City in developing our long range water resource plan. One of the key components of the plan is the development of a long term off stream storage facility. Without the reservation rights, one of our key strategies will be removed from our options.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water remains available for future appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information submitted in the applicant's response to the DNRC questionnaire estimates a population of 250,000 people by the year 2035. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2035 water use for the City of Billings would be 70,009 acre-feet per year $[(250 \text{ gallons per day})(250,000 \text{ persons})(365 \text{ days per year})] \div [325,851] = 70,009$ acre-feet per year. Existing "municipal" water rights for the City of Billings total 70,435 acre-feet.

It appears that the City of Billings has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Based on this consideration, the city should not rely on the excess claims for growth.

4. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: "The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation". (page 3, paragraph 13) In the 38 years since the adoption of the reservation the City of Billings has applied for and received three groundwater certificates and one provisional permit for a total of 233.5 acre-feet of water which, under the conditions cited above, should count against the total flow and volume awarded through the Final Order.

¹City of Billings Water Rights:

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Volume
43Q 208215 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	YELLOWSTONE RIVER	1/19/1887	234
43Q 30010066	STATEMENT OF CLAIM	ACTV	MUNICIPAL	YELLOWSTONE RIVER	1/1/1895	336
43Q 30010067	STATEMENT OF CLAIM	ACTV	MUNICIPAL	YELLOWSTONE RIVER	10/25/1905	1476.2
43Q 208214 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	YELLOWSTONE RIVER	8/27/1906	68388.8
43Q 1105 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	12/6/1973	8.25
43Q 1106 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	12/6/1973	8.25
43Q 1107 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	12/6/1973	8.25
43Q 1108 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	12/6/1973	8.25
43Q 1109 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	12/6/1973	8.25
43Q 1110 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	12/6/1973	8.25
43Q 1111 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	12/6/1973	8.25
43Q 2740 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	8.25
43Q 2738 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	8.25
43Q 2737 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	8.25
43Q 2745 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	9.75
43Q 2742 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	8.25
43Q 2743 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	8.25
43Q 2741 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	8.25
43Q 2744 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	9.75
43Q 2746 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	8.25
43Q 2747 00	GROUND WATER CERTIFICATE	ACTV	IRRIGATION	GROUNDWATER	6/27/1974	9.75
43Q 4519 00	PROVISIONAL PERMIT	ACTV	POLLUTION ABATEMENT	GROUNDWATER	12/19/1974	1387
43Q 4520 00	PROVISIONAL PERMIT	ACTV	POLLUTION ABATEMENT	GROUNDWATER	12/19/1974	1387
43Q 4521 00	PROVISIONAL PERMIT	ACTV	POLLUTION ABATEMENT	GROUNDWATER	12/19/1974	1387
43Q 4522 00	PROVISIONAL PERMIT	ACTV	POLLUTION ABATEMENT	GROUNDWATER	12/19/1974	1387
43Q 9646 00	WATER RESERVATION	ACTV	MUNICIPAL	YELLOWSTONE RIVER	12/15/1978	53550
43Q 66393 00	GROUND WATER CERTIFICATE	ACTV	LAWN AND GARDEN	GROUNDWATER	9/10/1987	3.75
43Q 66394 00	GROUND WATER CERTIFICATE	ACTV	LAWN AND GARDEN	GROUNDWATER	9/10/1987	18.75
43Q 75500 00	GROUND WATER CERTIFICATE	ACTV	LAWN AND GARDEN	GROUNDWATER	8/22/1990	10
43Q 30068497	PROVISIONAL PERMIT	ACTV	WETLAND; FISHERY	HOGANS SLOUGH	12/27/2013	201

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 995300

Town of Broadus

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	605 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the town of Broadus on December 21st, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: 337 GPM up to 605 AF. Current needs are 550 AF. Water rights cover 505 AF so we have used about 45 AF of water reservation.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Purpose is still municipal.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Town is still planning on having coal mines coming in & population increase; therefore the water reservation is still needed.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Yes, because of the coal mine development which is consistent with our original request. There also may be a need for continued oil well drilling.

5. **Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes, this is for municipal purpose.

6. **Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: All of these documents are in the original application for water reservation.

7. **Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: A portion of the reservation has been used. We cannot take any actions to ensure we complete the water reservation. We will use the water as the coal companies and energy industry are developed and families come to Broadus.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights¹ appears to be more than adequate to serve the existing and projected population. Additionally, water remains available for future appropriation through the provisional permit process. It is noted that the reservant's response indicates a current use of 550 acre-feet, however, given the 2013 population of 480 people this would amount to a per person use of over 1,000 gallons per day. More information is needed to substantiate this volume of current use.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. The 2013 census indicates a population of 480 people for the Town of Broadus. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the Town of Broadus was 134.42 acre-feet, $[(250 \text{ gallons per day})(480 \text{ people})(365 \text{ days per year})] \div [325,851] = 134.42 \text{ acre-feet}$. Existing "municipal" water rights for the Town of Broadus total 506.5 acre-feet. It appears that the Town of Broadus has ample water for the current and projected populations. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Based on this consideration the town of Broadus should not rely on the volume expressed in the existing Powder River Declarations for growth and the reservation should be pursued for future growth.

4. In the 38 years since the Final Order establishing the reservation was issued the Town reports that 45 acre-feet or 7.4% of the total reservation has been perfected. No value was provided for the perfected flow rate.
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: “The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation”. (page 3, paragraph 13)
In the 38 years since the adoption of the reservation the Town of Broadus has applied for and received one groundwater certificate for a total of 10acre-feet of water which, under the conditions cited above, should count against the total flow and volume awarded through the Final Order.

¹*Town of Broadus Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
42J 2010 00	Powder River Declaration	Active	12/31/1952	Municipal	Groundwater		1.5
42J 2007 00	Powder River Declaration	Active	3/23/1961	Municipal	Groundwater	0.67 CFS	196
42J 2006 00	Powder River Declaration	Active	12/10/1963	Municipal	Groundwater	70 GPM	113
42J 2008 00	Powder River Declaration	Active	12/9/1969	Municipal	Groundwater	0.53	196
42J 7386 00	Ground Water Certificate	Active	1/29/1976	Recreation	Groundwater	60 GPM	
42J 9952 00	Water Reservation	Active	12/15/1978	Municipal	Groundwater	0.84 CFS	605
42J 56486	Ground Water Certificate	Active	6/26/1984	Lawn & Garden	Groundwater	37 GPM	10

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 993700

Town of Columbus

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	883 acre-feet per year
Source:	Yellowstone River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the town of Shelby on December 7th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The water reservation provides for 883 AF annual withdrawal from the Yellowstone River. In 2009, the town added the Heritage Park well onto the reservation by a change application. The well was added to the water reservation as a point of diversion and allocated 334 AF. It has been in service and producing water since 2011. The well is installed into an unconfined aquifer that is tributary to the Yellowstone River. There is no change in the purpose and need of the reservation or the methodology originally used to determine the amount.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose of the reservation, for municipal use by the Town of Columbus, has not changed since the reservation was granted. The purpose of the reservation is to ensure water availability and to protect streamflow for future needs of the Town of Columbus.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The Town of Columbus continues to experience increased need for water supply due to population growth and new commercial businesses. Since the Town was granted its water reservation in 1978, the Town has extended its boundaries on several occasions to incorporate new subdivisions; Montana Silversmiths has constructed a manufacturing plant within the Town; a new hospital/clinic has

been constructed within the Town; and Stillwater Mining Company has built a smelter and two base metal refineries within the Town; a Town Pump Travel Plaza and a 72 room Super 8 Motel were built within the Town. The number of water service connections has increased from approximately 608 connections in 1978 to 952 at the present time. From 1990 to 2010 the population increased by 320. The positive population growth that has been observed ensures the water reservation will be fully perfected. The steady growth rate observed from census data is typical for municipal growth rates in Montana, and has not changed substantially since the time the final order was written.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount of the water reservation was determined by consideration of unit water use rates and population. The present conditions are consistent with the original values used to identify the water reservation amount of 883 AF for a population of 4,500. The population growth data (from 1910 to present) show the Town will fully perfect the volume of water designated by the reservation, and in fact, will require additional water rights in the future beyond the present amount. The Town's future population can be projected to now exceed 4,500 persons. Once the reservation is fully used, the Town will obtain water rights by expanding the reservation or through water right transfers.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The water reservation is being used for municipal uses in the Town of Columbus and provides for the necessary and orderly development of the water supply, and protection of streamflow, and therefore is in the public interest. A reliable water supply is a cornerstone of the Town's economic vitality. The Town's continued interest in the Yellowstone River helps to protect this valuable resource.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: As concluded in the prior DNRC 10-year report, the Town is in substantial compliance with the final order for the water reservation, and has made submittals to DNRC concerning the reservation whenever DNRC made such requests. Furthermore, the Town conducts routine water system planning that focuses on meeting water demand reliably and cost-effectively. This work includes evaluation of water supply sources and water rights, transmission and distribution piping, water storage, system improvements, billing rates, and financing. Leak detection and water conservation are ongoing efforts by the Town. Specific studies addressing these components of the public water system include: 1) Strategic Planning Study (1990); 2) Capital Improvements Plan (1998); and 3) Preliminary Engineering Report (2006). The Town's planning office also evaluates growth policies, including water supply considerations, every five years and most recently in 2012. A water distribution analysis was completed

in 2007 pertaining to a 200 lot subdivision annexation project. The Town also completed a Source Water Protection Plan in 2013.

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The primary factor affecting the level of perfection is population growth rate, however, the Town continues to perfect the water reservation to a greater degree each year. The Town has experienced positive growth rate, but the magnitude is variable and this results in variation of rate at which reservation water is beneficially used. For example, the growth rate leading up to the recession of 2008 was much greater than the present growth rate, as determined by the Montana Department of Commerce.

The Town is ensuring that the reservation is fully used by allocating the volume to new source development. The reservation is the only water right owned by the Town that can be used for new source development. The Town intends to construct and add two new wells onto the reservation. The first of these will be constructed by year 2020. With the addition of these two sources, the infrastructure to fully perfect the water reservation will have been constructed, and the water reservation will be fully allocated.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Information submitted in the applicant's response to the DNRC questionnaire indicates that 344 acre-feet per year is currently being diverted under the reservation. Although the City is putting a portion of their reservation to use, water available through existing water rights appears to be more than adequate to serve the existing and projected population.⁴ Water remains available for future appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. The 2013 census identifies a population of 1,996 people for the City of Columbus. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Columbus was 559 acre-feet per year, $[(250 \text{ gallons per day})(7,798 \text{ persons})(365 \text{ days per year})] \div [325,851 \text{ gallons}] = 559 \text{ acre-feet per year}$. Existing "municipal" water rights for the City of Columbus, (excluding the reservation), total 3,014 acre-feet per year. It appears that the City of Columbus has sufficient water rights to serve the current population. However, these rights cannot be relied upon until a final decree is issued. The Montana Water Use Act (1973) initiated a statewide adjudication of all water rights that existed in the state prior to July 1, 1973. The act identifies historic beneficial use as the measure of a water right. The excess volume may not be deemed a valid as it was never put to use. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right

ceases.” Based on this consideration, the Town should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. The City of Columbus has submitted one application to change their reservation. Through this change the City has perfected 0.8 CFS up to 334 acre-feet per year of their reservation. The remaining unused portion of the City’s reservation totals 539 acre-feet per year with a flow rate of 0.42 cubic feet per second, (188.5 gallons per minute).
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: “The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation”. (page 3, paragraph 13)
In the 38 years since the adoption of the reservation the Town of Columbus has applied for and received one groundwater certificate and three provisional permits for a total of 798 acre-feet of water which, under the conditions cited above, should count against the total flow and volume awarded through the Final Order. Under the conditions cited above the entire water reservation for the Town of Columbus has been perfected.

¹*Town of Columbus Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
43QJ 195889 00	Statement of Claim	Active	12/31/1906	Municipal	Yellowstone River	807.84 GPM	2,264
43QJ 198649 00	Statement of Claim	Active	4/1/1946	Irrigation	Yellowstone River	11.96 CFS	1,870
43QJ 9937 00	Water Reservation	Active	12/15/1978	Municipal	Yellowstone River	1.22 CFS	883
43QJ 22831 00	Provisional Permit	Active	5/22/1979	Irrigation	Groundwater	500 GPM	30
43QJ 60353 00	Provisional Permit	Active	8/1/1985	Municipal	Groundwater	1,000 GPM	750
43QJ 78070 00	Ground Water Certificate	Active	8/12/1991	Lawn & Garden	Groundwater	65 GPM	9.38
43QJ 115349 00	Provisional Permit	Active	7/23/2001	Irrigation	Groundwater	80 GPM	8.5

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 993800

City of Glendive

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	3,281 acre-feet per year
Source:	Yellowstone River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Glendive on December 31st, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: With the granted volume from this Reservation, the City has a water right of 7,233 gpm, The City's current Yellowstone River intake capacity is 7200 gpm.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose does remain the same as previously identified; to ensure water availability and an adequate streamflow for future domestic and related industrial needs of the City. The City has seen a significant increase in population over the last four years so securing the most reasonable water reservation is important.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: There is a definite need for the reservation of water for the City of Glendive. Water Reservation is the sole means by which the City can be ensured of future water availability. This is important because of upstream competition within the Yellowstone Basin for available water resources and recent local economic growth.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount is still appropriate and actually may become insufficient in the next decade if population growth continues or if the City annexes existing surrounding county subdivisions as their well water quality declines.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The Reservation does remain in the public interest. It is a beneficial use reservation which is a public use. A water reservation to the City of Glendive would aid Glendive, the State of Montana and their inhabitants from both an economic and public health standpoint.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: An engineering evaluation is currently under way to replace the known bottlenecks in the City's treatment capacity to bring the entire plant's capacity up to the 7200 gpm capability realized by our 1999-2000 river intake construction project. General plans are submitted with this questionnaire.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The City of Glendive has made and continues to study and plan to perfect the Reservation. The City has the intake capability to obtain the full amount of the Reservation and as stated in (6. Compliance) general plans are included for the next phase of water treatment plant improvement and expansion

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water remains available for future appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. The 2013 census indicates a population of 5,399 people for the City of Glendive. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Glendive would be 1,512 acre-feet per year $[(250 \text{ gallons per day})(5,399 \text{ persons})(365 \text{ days per year})] \div [325,851] = 1,512 \text{ acre-feet per year}$. Existing "municipal" water rights for the City of Glendive total 3,207 acre-feet.

It appears that the City of Glendive has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were

significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the City should not rely on the excess claims for growth.

4. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. Information provided by the applicant indicates that the City has sufficient intake capacity to deliver the entire flow of all of its water rights from the Yellowstone River.
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: “The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation”. (page 3, paragraph 13)
In the 38 years since the adoption of the reservation the City of Glendive has not applied for any additional water rights.

¹*City of Glendive Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
42M 163757 00	Statement of Claim	Active	4/26/1906	Municipal	Yellowstone River	4 CFS	1,116.50
42M 163758 00	Statement of Claim	Active	11/12/1934	Municipal	Groundwater	85 GPM	54
42M 163759 00	Statement of Claim	Active	8/7/1941	Municipal	Groundwater	135 GPM	84.4
42M 163756 00	Statement of Claim	Active	8/18/1961	Municipal	Yellowstone River	7.58 CFS	1,952
42M 9938 00	Water Reservation	Active	12/15/1978	Municipal	Yellowstone River	4.53 CFS	3,281

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 993900

City of Laurel

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	7,151 acre-feet per year
Source:	Yellowstone River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Laurel on December 7th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount granted as stated in the reservation is 7,151 AF at a flow rate of 9.88 CFS. The amount allocated to date has been up to 244 AF of the reservation according to water distribution records from the past 5 years. There has been no change to the amount required to satisfy the purpose and need of the reservation, nor has there been any change in the methodology originally used to determine the amount.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose of the reservation has not changed from the original application which states: The purpose of this reservation is to ensure water availability and an adequate streamflow for the future domestic and related industrial needs of the City of Laurel, MT.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The City of Laurel believes the need for the reservation has not changed from the original application.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: A portion of the reserved water has been put into use on an annual basis (generally) for the past 5 years. The amount of use of the reservation has ranged from 10 AF up to 244 AF. It is expected that the annual need for the reservation will continue to increase as the population of the City continues to grow and the industrial needs also continue to increase. The 20-year planning population and industrial demand predicts the annual water use to increase to nearly 4,000 AF, while the 50 year planning period predicts that demand to grow to over 5,400 AF. The following table contains the available data as presented in the 2014 Preliminary Engineering Report (PER) as well as the anticipated water use by the main industrial user CHS Inc.

Note: It must be noted that the City cannot predict what the annual growth will be. The assumptions used are based on the population and water use data available.

City of Laurel – Water Use Projections

Year	Population	Residential Average Day Demand (MGD)	Industrial Average Day Demand (MGD)	Annual Water Use (MG)	Annual Water Use (AF)
2010	6,718	1.11	1.68	1,018	3,123
2015	6,974	1.15	-	-	-
2025	7,515	1.24	-	-	-
2035	8,098	1.34	2.20	1,291	3,961
2065	10,133	1.67	3.20	1,778	5,457

Note: Data from Preliminary Engineering Report (2014), available meter data and predicted water demand by CHS, Inc.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The public interest has not changed from the original application. It is the sincere belief of the City of Laurel that the reservation is in the public interest because it is a beneficial use. Additionally, the reservation will contribute economically to the public interest. This is further evidenced by the fact that the reservation is currently being put to use and is predicted to be utilized on an increasing basis in the years to come.

6. Compliance: Please provide information evidencing compliance with the board’s order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: See attached documentation outlining the drought contingency plan, historic use & consumption, and water measurement.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The perfection of the reservation is ongoing. The growth in the area is requiring the use of the reservation. The predicted continued growth of the residential and industrial demand for water will require the reservation continue to be utilized, increasing on an annual basis.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. The applicant appears to be in substantial compliance with the need for the reservation. The water volume available through the city’s single existing water right was calculated based on the highest use prior to 1973.¹ Expansion from this pre 1973 use appears to have been exclusively from the reservation.
Information submitted through the City’s response to the DNRC questionnaire identifies an industrial demand greater than the residential demand, explaining the disparity in the current population and the total water use.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information submitted in the applicant’s response to the DNRC questionnaire estimates states that 244 acre-feet per year is currently being diverted under the reservation. The city further estimates a water use of 5,457 acre-feet per year by the year 2065. Using this estimate only 1,932 acre-feet would be diverted under the water reservation in the year 2065.
4. In the 38 years since the Final Order establishing the reservation was issued the City reports that 244 acre-feet per year or 3.4% of the total reservation has been perfected. No value was provided for the perfected flow rate.
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: “The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation”. (page 3, paragraph 13)
In the 38 years since the adoption of the reservation the City of Laurel has not applied for any additional water rights.

¹*City of Laurel Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
43QJ 45730 00	Statement of Claim	Active	12/31/1908	Municipal	Yellowstone River	19.5 CFS	3,525
43QJ 9939 00	Water Reservation	Active	12/15/1978	Municipal	Yellowstone River	9.88 CFS	7,151.00

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994000

City of Livingston

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	4,510 acre-feet per year
Source:	Yellowstone River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Livingston on December 28th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The BNRC's December 15, 1978 Order granted the City of Livingston the amount of 4,510 acre-feet per year at a flow rate of 6.23 cubic feet per second. For the reasons discussed below, there has been no change in the amount of water needed to satisfy the purpose and need of the reservation.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: According to Finding of Fact 2 of the BNRC's Order, the reason for Livingston's reservation was to "ensure water availability and an adequate streamflow for the future needs of the City of Livingston and adjacent areas." The purpose of the reservation remains the same in that the City intends to use the water for the reasons called out in its Application and the BNRC's Order. Specifically, Livingston continues to expand and grow, (although at a slower pace than originally anticipated), and access to additional water will become necessary in the future.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes, the need still exists. While Livingston has not grown as rapidly as was predicted in the late 70's, the City Administration strongly believes Livingston will continue to grow at a steady pace. The City recently commissioned a Preliminary Engineering Report ("PER") in connection with its plan to upgrade its waste water treatment facilities to meet Montana Department of Environmental Quality

discharge permit requirements. (Relevant portions of the PER are attached hereto as Exhibit 1.) The PER reveals Livingston's population grew from 6,701 to 6,851 residents between 1990 and 2000. The population again increased from 2000 to 2010, with the amount of residents jumping to 7,044 in 2010. The PER predicts Livingston's population will be 8,722 in 2020 and 10,500 in 2030.

As further evidence of the anticipated population growth, Livingston is currently expanding on its northwest side with ongoing, new residential development and construction. A hospital was recently built east of town, which is certain to spur more development in the immediate area. In addition, a 200+ lot subdivision was approved for an area very near the new hospital. Engineering studies for utility extensions related to the 200+ lot subdivision called for an additional well east of the Yellowstone River. Livingston's Water Preliminary Engineering Report also recommends an additional water source for the City to be located east of the Yellowstone River. And, as touched on above, the City is in the process of upgrading its waste water treatment facilities to account for population growth in areas defined by the City's growth policy. The upgrades are likely to have an effect on the City's water usage. Finally, the Gallatin Valley's sustained growth continues to spill over into Park County and Livingston. Provided similar growth in the surrounding areas persists, Livingston's existing water supply may be stretched thin and the reservation will be vitally important.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount remains appropriate. As discussed in the City's answer to Question 3 above, the PER predicts Livingston's population will increase to 10,500 by the year 2030. Even though the PER's population prediction is less than half that predicted by the BNRC when it granted Livingston a water reservation in the amount of 4,510 acre-feet per year at a flow rate of 6.23 cubic feet per second (see Finding of Fact 20 in BNRC Order), the PER evidences that Livingston's population will continue to grow, thus placing strain on the current water supply. Moreover, unforeseen events may lead to a population boom not anticipated in the PER. For a municipality whose residents depend on it for a critically important resource like water, it is always better to have water and not need it than it is to need water and not have it. Accordingly, the amount of Livingston's water reservation remains appropriate.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Findings of Fact 28 and 33 of the BNRC's Order provide as follows: "[M]unicipal water use is [a] recognized beneficial use of water under Montana law," and reservation of water from "the Yellowstone River for the City of Livingston for municipal water supply use is in the public interest." Because Livingston remains intent on using the reserved water for the reasons identified in its Application and the BNRC's Order – i.e., for municipal water supply use – the reservation remains in the public interest. The City needs to retain its water reservation to grow in a responsible and prudent manner. The City relied upon the PER, its present growth patterns and water use in its corporate limits in coming to the foregoing conclusion.

6. Compliance: Please provide information evidencing compliance with the board’s order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: All such reports in the City’s possession and/or control are collectively attached hereto as Exhibit 2. The submittal dates are not clear from the documents.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Livingston’s use has not reached the development level projected, mainly because 1970s population predictions have not come to fruition. There are many reasons Livingston’s population did not boom as expected, not the least of which was BNSF leaving town in the late 80s. However, as detailed in prior answers, studies show Livingston’s population will continue to increase through the year 2030. City officials must plan for growth as a result, and access to Livingston’s December 15, 1978 water reservation is an absolute necessity. The City will make every effort to perfect the reservation if and when its population rises to a level requiring use of the reserved water.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water remains available for future appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information submitted in the applicant’s response to the DNRC questionnaire estimates a population of 10,500 people by the year 2030. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2030 water use for the City of Livingston would be 2,940 acre-feet per year $[(250 \text{ gallons per day})(10,500 \text{ persons})(365 \text{ days per year})] \div [325,851] = 2,940 \text{ acre-feet per year}$. Existing “municipal” water rights for the City of Livingston total 10,083.56 acre-feet. It appears that the City of Livingston has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the city should not rely on the excess claims for growth.
4. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: “The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation”. (page 3, paragraph 13)

In the 38 years since the adoption of the reservation the City of Livingston has applied for and received three provisional permits for a total of 313.35 acre-feet of water which, under the conditions cited above, should count against the total flow and volume awarded through the Final Order.

¹City of Livingston Water Rights:

WR Number *	WR Type	Status	Purposes	Source Name	Priority Date	Volume
43B 194573 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL; FISHERY	YELLOWSTONE RIVER	1/6/1890	1385
43B 194572 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	YELLOWSTONE RIVER	1/23/1913	3148
43B 194575 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	5/31/1951	76.7
43B 193768 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	2/28/1955	821
43B 194574 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	2/28/1955	798.36
43B 194579 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	2/28/1955	805
43B 194571 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	10/12/1960	159
43B 193767 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	12/31/1960	32.34
43B 194576 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	12/7/1961	50
43B 193766 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	12/14/1961	50
43B 194578 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	10/10/1963	25
43B 194577 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	7/20/1965	1546
43B 3530 00	PROVISIONAL PERMIT	ACTV	MUNICIPAL	GROUNDWATER	9/6/1974	485.81
43B 3531 00	PROVISIONAL PERMIT	ACTV	MUNICIPAL	GROUNDWATER	9/6/1974	327
43B 13670 00	GROUND WATER CERTIFICATE	ACTV	MUNICIPAL	GROUNDWATER	6/24/1977	61
43B 9940 00	WATER RESERVATION	ACTV	MUNICIPAL	YELLOWSTONE RIVER	12/15/1978	4510
43B 58303 00	PROVISIONAL PERMIT	ACTV	MUNICIPAL	GROUNDWATER	12/20/1984	140.35
43B 73697 00	PROVISIONAL PERMIT	ACTV	MUNICIPAL	GROUNDWATER	2/22/1990	<Null>
43B 73729 00	PROVISIONAL PERMIT	ACTV	MUNICIPAL	GROUNDWATER	3/26/1990	173

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 995400

City of Miles City

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	2,889 acre-feet per year
Source:	Yellowstone River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Miles City on December 31st, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount granted/allocated to date is 4 CFS up to 2,889 acre-feet per year for municipal use per year from Jan. to Dec. There is no change in the amount required at this time. The methodology that was originally used was based on population and proposed growth. Miles City's population has been steady in the past few years, but is steadily increasing due to the Bakken oil field. Miles City is centrally located between the Bakken oil field, proposed wind farms, Natural gas production and coal that could be used for hydrogen fuel cell technology when available technology becomes better available. Miles City could experience rapid growth during any one of these energy booms.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose has stayed the same for Miles City which is to provide water to the city residents and businesses for beneficial use.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: In our growth policy we are anticipating 18,000 to 20,000 people. We are currently seeing growth as compared to the past years due to energy development. The water reservation is still needed to serve the public and encourage development to the Miles City area.

4. **Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount is still appropriate with the application. This was determined by the original water reservation for the City of Miles City.

5. **Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The reservation still remains in the public interest as identified in the original application. The interest of the public is being served as the Montana Water use Act defines Municipal use of water as a beneficial use. We also need the reservation to fulfill our growth policy which will allow Miles City to attract businesses and residents, which in turn will help with the growth of Miles City.

6. **Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: Growth policy and supported evidence in the original application. In our current growth policy we are still anticipating growth in which the water reservation will be needed, as was in the original application.

7. **Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Due to the downturn in the economy in the past years, we have not reached the growth that was anticipated. We are currently seeing growth due to the energy boom that is in the Bakken. We are surrounded by other energy sources, wind, natural gas and coal development that any on source could be developed, whereby creating a population boom. The water reservation will be needed if that were to occur.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing population.¹ Water remains available for future appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. The 2013 census indicates a population of 8,758 people for the City of Miles City. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Miles City would be 2,453 acre-feet per year $[(250 \text{ gallons per day})(8,758 \text{ persons})(365 \text{ days per year})] \div [325,851] = 2,453$ acre-feet per year. Existing "municipal" water rights for the City of Miles City total 3,661 acre-feet.

It appears that the City of Miles City has sufficient water rights to serve the current population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the City should not rely on the excess claims for growth.

4. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.
5. Conditions of the Final Order establishing municipal reservations in the Yellowstone River basin state: “The reservation is intended to run concurrently with and overlap rather than run consecutively with, any other right to the use of water claimed by the reservant but not perfected to the effective date of the adoption of the reservation”. (page 3, paragraph 13)
In the 38 years since the adoption of the reservation the City of Miles City has not applied for any additional water rights.

¹*City of Miles City Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
42KJ 162738 00	Statement of Claim	Active	4/1/1896	Municipal	Yellowstone River	11.14 CFS	2,541
42KJ 162739 00	Statement of Claim	Active	4/1/1896	Municipal	Groundwater	210 GPM	323.43
42C 175316 00	Statement of Claim	Active	4/30/1935	Recreation	Tongue River	1,280 GPM	892
42C 175473 00	Statement of Claim	Active	7/1/1951	Domestic	Groundwater	15 GPM	2
42C 175474 00	Statement of Claim	Active	7/1/1951	Industrial	Groundwater	15 GPM	5
42C 175475 00	Statement of Claim	Active	7/1/1953	Industrial	Groundwater	15 GPM	5
42C 177519 00	Statement of Claim	Active	6/30/1960	Commercial	Groundwater	20 GPM	5
42C 177520 00	Statement of Claim	Active	6/30/1960	Domestic	Groundwater	20 GPM	1.5
42KJ 1051 00	Provisional Permit	Active	11/29/1973	Municipal	Yellowstone River	11 CFS	796.36
42K 9954 00	Water Reservation	Active	12/15/1978	Municipal	Yellowstone River	4 CFS	2,889

Appendix B

Lower Missouri Municipal Reservations

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449200

Town of Circle Montana

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	78 acre-feet per year
Source:	Groundwater

Summary:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the Town of Circle on May 2nd, 2016.

Reservant Response:

Required Reporting [36.16.120]

1. **Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: There are no changes.

2. **Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Has not changed.

3. **Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes, the need does exist – people need water.

4. **Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Yes, the amount is still in accordance w/ the application.

5. **Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes the reservation remains in the public interest.

6. **Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: We have responded to all compliance letters brought to us.

7. **Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: All projected levels have been met no changes.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. In addition to this Water Reservation, the Town of Circle has 5 existing water rights associated with town wells. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Additionally water remains available for future appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information in the original application identifies a projected population of 820 persons by the year 2035 for the Town of Circle. The 2013 census identifies a population of 609 for the Town of Circle. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the Town of Circle was [(250 gallons per day)(609 persons)(365 days per year)] ÷ [325,851] = 170.5 acre-feet per year. Existing "municipal" water rights for the Town of Circle total 1,279 acre-feet.

It appears that the Town of Circle has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Based on this consideration, the Town should not rely on the excess claims for growth. The reservation should be maintained in order to provide the legal right for future water supplies.

4. In the 22 years since the Final Order establishing the reservation none of the reservation has been perfected.

The proposed project as described in the original water reservation application involves drilling one additional 275 GPM well which would be tied to the existing distribution system. On October 9th, 2002 the Town of Circle submitted change application 40P 30003956 to add a new well capable of delivering 270 GPM to the existing distribution system. The flow and volume

associated with the five water rights involved in this change were not increased. Through this change, water provided under existing water rights includes this new well and the Town's water reservation was left unused.

Town of Circle Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40P 41361 00	Statement of Claim	Active	1/15/1954	Municipal	Groundwater	50 GPM	40.4
40P 2472 00	Statement of Claim	Active	9/22/1972	Municipal	Groundwater	200 GPM	111
40P 4526 00	Provisional Permit	Active	1/2/1975	Municipal	Groundwater	150 GPM	100.79
40P 41360 00	Statement of Claim	Active	11/5/1981	Municipal	Groundwater	598 GPM	941.1
40P 41362 00	Statement of Claim	Active	11/5/1981	Municipal	Groundwater	60 GPM	86.4
40P 84492 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	277.77 GPM	78.00

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7764600

City of Culbertson Montana

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	365 acre-feet per year
Source:	Missouri River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Culbertson on December 31th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount of water granted is 365 acre-feet per year at a rate of 0.44 million gallons per day (MGD). To date no water from the water reservation has been allocated. There is no change in the amount required to satisfy the purpose and need of the reservation and no changes in the methodology originally used to determine the amount.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose for the water reservation remains the same as identified in the application and order. The purpose is still for future beneficial municipal and industrial use. Municipal and industrial uses are defined as beneficial uses by Montana Water Law. This water reservation allows Culbertson to provide municipal water for future growth in a cost effective manner.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The need still exists as identified in the application and order. Water use in the Missouri River Basin continues to grow. This is especially true in the Milk River Basin where there is a closure on issuing new water use permits for direct diversion from the Milk River. This water reservation provides the essential security of a firm water supply needed by Culbertson to allow for water needs associated with future growth. Culbertson has experienced cyclical growth mostly due to oil and gas development

within the Bakken region. This water reservation allows Culbertson to be prepared when the oil and gas development rebounds and an influx of oil and gas related workers' water demand exists. The last 5 years have shown significant signs of growth within Culbertson, and the Town recently completed a wastewater treatment system upgrade to accommodate nearly double the size of the Town's population from the 2010 Census. The influx of workers in both the oil and gas fields, service companies and basic services that support this population continues to have an impact on eastern Montana communities, even with low oil prices. Culbertson continues to see applications for new development within and adjacent to the town, indicating continued growth.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount of water reservation is still appropriate for the Town of Culbertson. The forecasted population growth is still relevant as described in the original application. More importantly Culbertson has recently been going through a cycle of water demand from oil and gas development in the region. The Town has recently seen several new subdivision developments that have added a significant number of available lots, and the available vacant lots within the town have been developed and are currently being utilized. The Town has projected that its 2010 Census population will nearly double over the next 10 years. A Preliminary Engineering Report for the recently completed wastewater treatment system was developed in 2012 that included flow projections. At the time of the report the Town had an existing flow of 96,741 gpd. Approved and future flows were also analyzed to account for future community expansion. Approved flows were classified as proposed new developments with approved development applications either submitted to the Town or approved by the Town. The total approved flows at the time of design were 70,780 gpd. Future flows were classified as potential developments that will allow for the town to approve further development in the future. The total future flows were 30,065 gpd. The design flow used for designing the new wastewater system was 197,586 gpd to accommodate projected flows for the next 20 years. Although it is difficult to forecast growth from oil and gas development due to its dependence on pricing, projections within the Bakken area suggest continued growth throughout the next 20 years. The amount requested will give Culbertson the peace of mind that water availability will not inhibit growth.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The reservation still remains in the public interest as identified in the application and order. The reservation is in the public interest for two primary reasons. First, there is constitutional and legislative support for the reservation and subsequent development of water. Second, it is essential that the Town of Culbertson secure an adequate, stable water supply if the community is to prosper and continue to develop. The beneficial use of the reservation of water will support activities needed to generate economic growth from increased employment and tax revenues. This water reservation assures that the availability of water will not become a constraint to growth of Culbertson and Montana.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: Attached to this report is the billing usage summary for the Town of Culbertson for the years 2005 through 2015 as well as the Preliminary Engineering Report for the Town's recent Wastewater Treatment System Rehabilitation project.

7. **Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The use of the reserved water for the Town of Culbertson has not reached the development level projected due to the cyclical nature of water demands for the Town. Development in this part of the State is currently directly related to the oil and gas industry. Because of this it is difficult to predict when the Town will reach the development level projected. Development happens very quickly when the oil and gas industry picks up and the reservation allows the Town to be ready for the influx of development. As the Town's population and water needs grow, they will work closely with the DNRC to ensure perfection of the water reservation.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. The need for the reservation does not appear to have materialized. Water from the reserved source remains available through the DNRC permitting process. Additionally, the Town of Culbertson is within the service area of the Dry Prairie Rural Water System. This system, when fully developed, will provide municipal water.
3. The applicant appears to be in substantial compliance with the amount granted. Information submitted in the original application identified two existing water rights with a combined total of 2,419 acre-feet per year. During the adjudication process one of these water rights was withdrawn by the applicant and the other was reduced to 258 acre-feet per year by the Water Court to reflect "historic use", (Masters report 40S-7 filed April 8th, 2008). The original application identifies a daily use of 189 gallons per person within the town of Culbertson and a daily use of 250 gallons per person for communities of a similar demographic makeup. Using 250 gallons per person per day and the 2013 population of 794 individuals the estimated daily use for the town of Culbertson totals 223 acre-feet per year [(250 gallons per day)(794 persons)(365 days per year)] ÷[325,851] = 223 acre-feet per year. Excluding this reservation, DNRC records indicate one water right for a total of 258 acre-feet per year for the town of Culbertson following adjudication by the Montana Water Court. Unless the Town applied for a new provisional permit, all future growth in the Town of Culbertson would rely on use of the Town's water reservation. Although the population of Culbertson has experienced a slight decline from the 1980 population, with the proximity to the Bakken oil field this could easily be reversed. Population growth in Culbertson could experience rapid change.
4. In June of 2012 the Town conducted a hydrostatic test of the newly completed public water supply. Through this test the entire flow and volume of all current water rights including the Water Reservation was put to use and thus perfected.
5. The project proposed in the original water reservation application includes providing water to Culbertson and the Roosevelt County Rural Water Users District by modifying the existing water treatment plant. This up-grade was completed in 2015. The City of Culbertson submitted a record of yearly use from January 2005 through November of 2015. The records show an average use of approximately 190 acre-feet per year. During this

period the City completed an up-grade of the municipal water system. In June of 2012 the system was hydrostatically tested with maximum flow. The volume delivered in June of 2012 was approximately 620 acre-feet of water, which indicates that the city's statement of claim and water reservation were used nearly in their entirety. Excluding this test period the average yearly use for the 10 year period was 128 acre-feet per year. Current water rights for the City of Culbertson total 258 acre-feet per year.

City of Culbertson Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40S 1549 00	Statement of Claim	Active	12/31/1964	Municipal	Missouri River	800 GPM	257.35
40S 77646 00	Water Reservation	Active	7/1/1985	Municipal	Missouri River	305.55 GPM	365

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8448500

Town of Ekalaka Montana

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1989
Volume:	20 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the town of Ekalaka on December 3rd, 2015.

Reservant Response:

Required Reporting [36.16.120]

1. Summary: Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount granted/allocated to date is 50 gallons per minute up to 20 acre-feet for municipal use from January through December of each year. No change in the amount required is needed to satisfy the purpose or need of the reservation at this time. The methodology originally used was based on population growth. The population of the Town has dwindled more than anticipated on the original application. However, at this time the population has begun to demonstrate steady growth. In addition, as Ekalaka is located in the proximity of the Bakken Oil Formation, a population boom could occur spontaneously.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose of the application was to allow for the Town to provide municipal water for future growth in a cost effective manner. The purpose has not changed. The municipality is currently increasing in population and this growth correlates directly to increased water usage by the residents and businesses.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes, the need still exists as identified in the application. The need of a water reservation, which allows a public entity to secure an early priority date for uses that may not be realized for years or even decades into the future, is a very critical need for a municipality. The need still exists as a municipality, at any moment, may be charged with the duty of providing water to an unknown population. (i.e. Bakken Oil Boom)

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Yes the amount is still appropriate. In the original application and order the amount of water reservation needed was based on the water usage by dividing the average gallons per day usage by the average service area population. An assumption was made that the service area population that would be applicable in 2035 was expected to be 682. Since the date of the reservation application of 1991, the population has dwindled. However, it is still a probability, that as now the population is steadily increasing, that in twenty years (by 2035) that the population will reflect the 682 residents as was estimated in 1991. Thus, it is deemed that the amount is still appropriate as per the original application.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes, the water reservation remains in the public interest. As the 42nd Montana Legislature (1973) passed, and the governor signed into law, the Montana Water Use Act which defines municipal use of water as a beneficial use. Thus, as a municipality serves the public, the interest of the public is being served. In addition, a secure, stable water supply is required if a community is to prosper and develop. The water reservation allows availability of water to the public for its future needs.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The municipality is not aware of any compliance documentation that was required as part of the board's original order granting the reservation. With that in mind, the application for the water reservation indicated that the date the reserved water would be applied to beneficial use would be between January 2000 and December 2035. At such time the water reservation is utilized – prior to December of 2035 – appropriate compliance documents will be provided the Montana Department of Natural Resources and Conservation.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The use of water has not yet reached the development level projected. The decrease of population in prior years was more than anticipated. However, that trend seems to have ended and by December of 2035, if the population growth continues on its upward gain, the water reservation may be perfected.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable.
Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water rights associated with the current city wells supply ample water for the current population and should these wells fail the underlying right can be applied to a replacement well. Additionally, water remains available for future appropriation through the provisional permitting process.

3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

Information in the original application identifies a projected population of 524 persons by the year 2035 for the town of Ekalaka. The 2013 census identifies a population of 345 for the town of Ekalaka. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the town of Ekalaka was 97 acre-feet per year, $[(250 \text{ gallons per day})(345 \text{ persons})(365 \text{ days per year})] \div [325,851] = 97 \text{ acre-feet per year}$. Existing “municipal” water rights for the town of Ekalaka total 368 acre-feet.

It appears that the town of Ekalaka has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the city should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

The proposed project in the original water reservation application involved providing a sand separator on well #5 to increase its capacity, construction of a 100,000 gallon storage tank and providing additional distribution pipe. While the DNRC cannot confirm whether or not the proposed improvements have been implemented it does not appear that there has been an expanded use of water.

¹Town of Ekalaka Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
39FJ 4452 00	Statement of Claim	Active	7/1/1946	Municipal	Groundwater	95 GPM	35.5
39FJ 4451 00	Statement of Claim	Active	11/24/1953	Municipal	Groundwater	100 GPM	35.5
39FJ 4450 00	Statement of Claim	Active	9/29/1960	Municipal	Groundwater	100 GPM	36
39FJ 4449 00	Statement of Claim	Active	7/10/1980	Municipal	Groundwater	188 GPM	35.5
39FJ 84485 00	Water Reservation	Active	7/1/1989	Municipal	Groundwater	49.3 GPM	20
39FJ 88879 00	Provisional Permit	Active	4/12/1994	Municipal	Groundwater	150 GPM	161
39FJ 30004710	Provisional Permit	Active	12/19/2002	Municipal	Groundwater	80 GPM	64.52

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7774900

Town of Fort Peck

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	100 acre-feet per year
Source:	Missouri River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the Town of Fort Peck on December 17th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The original water right allows the Town of Fort Peck a right of 1,500 Acre Feet with a maximum flow of 930 GPM. The 1991 report states that the amount of the reservation to be 100 Acre Feet, at a maximum flow of 150 GPM. This amount is adequate to satisfy the purpose, and the original methodology is still valid.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes, the purpose remains the same. The purpose of the original reservation was for future beneficial municipal and industrial use. This reservation will allow the Town of Fort Peck to provide municipal water for future growth in a cost effective manner. Recent subdivisions within the Town of Fort Peck have aided expansion. Currently the Town has approximately 76 vacant lots, with an average of 2 persons per residence, equates to an additional 152 residents once all of the lots are developed.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes, The need still exists. In order to plan for future growth, the water reservation process encourages a comprehensive planning effort that focuses on the future water needs of the community. Population projections for the Town of Fort Peck predict a rise in the number of residences over the next

10 - -5 years. According to the original report, the population of the Town is currently above the projected population for 2035.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount stated in the application is intended to serve a population of 230 people in the year 2035. According to the United States Census Bureau, the current population of the town is 233 people, with projected population trends projected to continue in the upward direction.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes, the reservation remains in the public interest. As stated in the application, there is constitutional and legislative support for the reservation and subsequent development of water. The reservation also allows the DNRC to make loans and grants to political subdivisions of the state to finance renewable resource projects such as water development projects. Secondly it is essential that the town secure adequate water supply if the town is to prosper and develop.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The water reservation by the Town of Fort Peck is used entirely within the state and within the Missouri River Basin. The Town of Fort Peck has identified a management plan for the design, development, and administration of its water reservation. Currently all of the residences in the Town of Fort Peck are metered, and a revised rate schedule is anticipated to be implemented. Also, the Town of Fort Peck is capable of exercising reasonable diligence towards feasibly financing projects and applying reservation water to beneficial use.

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The Town of Fort Peck has not perfected its reservation at this time. The installation of water meters throughout the Town have reduced water usage to a level more consistent with a community of its size. The continued growth of the Town of Fort Peck and the surrounding area will encourage development, and will help the Town of Fort Peck perfect its water right. As mentioned previously, the Town of Fort Peck's population has experienced recent growth, and is expected to continue to grow in the future. The current population already exceeds the projected population of the initial report for the year 2035.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable.
Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Additionally, water remains available for appropriation through the provisional permit process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

Information in the applicant’s response identifies a current population of 233 people for the Town of Fort Peck. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the current water use for the Town of Fort Peck is 65 acre-feet per year, $[(250 \text{ gallons per day})(724 \text{ persons})(365 \text{ days per year})] = 65 \text{ acre-feet}$. Existing “municipal” water rights for the Town of Fort Peck total 1,500 acre-feet.

It appears that the Town of Fort Peck has sufficient water rights to provide for a population much greater than the current population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Additionally, the existing Statement of Claim for the Town of Fort Peck includes an issue remark that brings the claimed volume into question. Resolution of this remark could potentially decrease for claimed volume. Based on these considerations, the city should not rely on the volume expressed in the existing Statement of Claim for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.
The proposed plan in the submitted application for a water reservation included expansion of the existing water treatment plant and distribution system. While the DNRC has no information on the status of these improvements it does not appear that there has been an increased use of water. Additionally, installation of water meters throughout the town has decreased total water usage.

¹Town of Fort Peck Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40E 182897 00	Statement of Claim	Active	11/23/1934	Municipal	Missouri River	930 GPM	1,500
40S 77749 00	Water Reservation	Active	7/1/1985	Municipal	Missouri River	150 GPM	100

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8448600

City of Havre Montana

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	475 acre-feet per year
Source:	Groundwater

Summary:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response.

No response was received from the City of Havre Montana.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose and public interest.
2. Reservant is non-compliant with the terms of the Final Order.

Senate Bill 330 was passed to mandate a review of all existing reservations as required through the Final Order granting water reservations on the Lower Missouri. *No response to the DNRC request for information was received from the Reservant.*

3. Need for the reservation appears questionable.

The City of Havre purchases all municipal water from the Bureau of Reclamation, (Fresno Reservoir). During the recent adjudication review by the Montana Water Court all municipal water rights with a priority date prior to July 1, 1973 except those used for emergency back-up were withdrawn for non-use. In addition to these emergency water rights the City of Havre has two active post 1973 provisional permits for municipal water in the DNRC database. Contract water from the Bureau of Reclamation appears to be more than adequate to serve the existing population.¹ Water from the reserved source, (groundwater), remains available for future appropriation through the provisional permit process.

Finally, Cut Bank is within the service area of the Rocky Boy North Central Montana Regional Water Project and will rely on the project for future appropriations when the project becomes operational.

4. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

Information in the original application identifies a projected population of 11,724 persons by the year 2035 for the City of Havre. The 2013 census identifies a population of 9,792 for the City of Havre. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Havre was 2,742 acre-feet per year, [(250 gallons per day)(9,792 persons)(365 days per year)] ÷[325,851]= 2,742 acre-feet per year. As previously stated the City of Havre purchases all municipal water

from the Bureau of Reclamation. Emergency back-up water rights for the City of Havre total 3,531 acre-feet. All back-up water rights are from existing wells.

It appears that the City of Havre has sufficient water rights to serve the current and projected population even without the purchase of additional water from the Bureau of Reclamation. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the Town should not rely on the excess claims for growth. The reservation should be maintained in order to provide the legal right for future water supplies.

5. In the 22 years since the Final Order establishing the reservation none of the reservation has been perfected.

City of Havre Municipal Water Rights:

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Volume
40J 196565 00	STATEMENT OF CLAIM	ACTV	FLOOD CONTROL	BULLHOOK CREEK	8/21/1898	2140
40J 196593 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	12/31/1919	242
40J 196609 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	3/31/1929	478.01
40J 196603 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	4/25/1929	485
40J 196605 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	12/31/1929	485
40J 196596 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	9/8/1941	16
40J 196611 00	STATEMENT OF CLAIM	ACTV	MUNICIPAL	GROUNDWATER	12/31/1948	167.31
40J 196628 00	STATEMENT OF CLAIM	ACTV	FLOOD CONTROL	BULLHOOK CREEK	12/31/1950	8376
40J 196627 00	STATEMENT OF CLAIM	ACTV	FLOOD CONTROL	UT BULLHOOK CREEK	12/31/1950	2094
40J 196629 00	STATEMENT OF CLAIM	ACTV	FLOOD CONTROL	UT MILK RIVER	12/31/1950	587
40J 450 00	PROVISIONAL PERMIT	ACTV	MUNICIPAL	GROUNDWATER	9/24/1973	<Null>
40J 5709 00	PROVISIONAL PERMIT	ACTV	MUNICIPAL	GROUNDWATER	6/16/1975	360
40J 84486 00	WATER RESERVATION	ACTV	MUNICIPAL	GROUNDWATER	7/1/1985	475
40J 81154 00	GROUND WATER CERTIFICATE	ACTV	OTHER	GROUNDWATER	8/21/1992	2.64

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8448300

City of Malta

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	137 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Malta on December 31th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The reservation allows the city of Malta a water reservation of 137 AF/year at the rate of .43 gallons per day, (MGD). Malta has not used any of this reserved right. Malta recently stipulated to a modification of its water rights in its four wells which was approved by the Water Court. Malta sees no change in the amount reservation to satisfy the purpose or the need expressed in its original application or any change in the methodology used.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose remains the same as expressed in Malta's application. Malta needs a water reservation for future beneficial municipal and industrial use. Municipal and industrial use are defined by Montana law. Maintaining this current water reservation will allow Malta to provide municipal water for future growth in a cost effective manner. The direct beneficiaries of the water reservation will be the residents and businesses served by the municipal water systems.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The need remains the same as expressed in Malta's application. The water reservation provides the essential security of a firm water supply needed by Malta to allow for the water needs associated with future growth. Like all eastern Montana communities, Malta faces the possibility of

accelerated growth caused by boom and bust cycles. The reservation allows Malta to accommodate normal growth over a planning period if and when that growth occurs.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount remains the same as expressed in Malta's application. Malta still requests that the water reservation be maintained for the development of one additional well to provide water for future growth. The maximum rate of the flow requested remains at 0.43 MDG (300 gpm) based on the practical yield of one new well. The volume of reserved water remains requested at 137 AF/year and based on average daily use increasing with an expanding population.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The public interest remains the same as expressed in Malta's application. It is essential that Malta secure an adequate, stable water supply if the community is to prosper and develop.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: Malta is in compliance with the Order to the best of its knowledge.

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Malta has not perfected its use of the reserved water right. Since the date of the application, Malta has undertaken efforts to reduce its water use. Malta recently agreed to the amendment of its water rights on its four wells. Malta's water right was reduced to 150 AF/year for each of its four wells. This reduction was based on a rate of use of 250 gallons per day per capita instead of the 350 gallons per day per capita that existed at the time of the application. This decline in use is due to improvements and repairs to the water storage and distribution system, a finance program for automatic lawn sprinklers, the installation of water meters, and a lower population. Malta is proceeding with new plans for additional multimillion dollar improvements to its water system over the next three years. Those plans include the installation of new trunk lines.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. The need for the reservation does not appear to have materialized. In the submitted application the City of Malta forecast a 2035 population of 2,825 people. As it has turned out the City has experienced negative growth. The 2013 population was 1,970, down from a 1980 population of 2,367. Additionally water from the reserved source remains available through the DNRC permitting process.

3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

Information submitted in the original application identified five existing water rights with a combined total of 2,110.5 acre-feet per year. During the adjudication process the total volume for these water rights was reduced to 863 acre-feet per year by the Montana Water Court to reflect “historic use”, (Masters Report, Case 40J-179 adopted December 22nd, 2015).

The original application identifies a daily use of 360 gallons per person per day within the town of Malta and a daily use of 250 gallons per person for communities of a similar demographic makeup. Since the date of the application, Malta has undertaken efforts to reduce its water use. The reduction in volume through Case 40J-179 cited a current use of 250 gallons per person per day. Using 250 gallons per person and the 2013 population of 1,970 individuals the estimated use for the town of Malta totals 552 acre-feet per year, $[(250 \text{ gallons per day})(9,792 \text{ persons})(365 \text{ days per year})] \div [325,851] = 2,742 \text{ acre-feet per year}$. Even with the reduction in volume done by the Montana Water Court water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹

4. In the 22 years since the Final Order establishing the reservation none of the reservation has been perfected.

¹*City of Malta Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40J 2473 00	Statement of Claim	Active	12/31/1913	Municipal	Groundwater	1,230 GPM	150
40J 2474 00	Statement of Claim	Active	12/31/1949	Municipal	Groundwater	2.12 CFS	150
40J 2475 00	Statement of Claim	Active	3/30/1963	Municipal	Groundwater	1.8 CFS	150
40J 2476 00	Statement of Claim	Active	6/30/1968	Municipal	Groundwater	1.77 CFS	150
40J 34508 00	Provisional Permit	Active	4/1/1981	Municipal	Groundwater	1,000 GPM	263
40J 84483 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	298.61 GPM	137

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449100

City of Plentywood

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	235 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Plentywood on December 31st, 2015.

Reservant Response:

Required Reporting [36.16.120]

1. Summary: Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: 235 Acre-Feet Per Year at rate of 0.72 Million Gallons Per Day. None allocated yet. No known change to methodology developed and used by Acquoneering (Roger Perkins), the consultant who prepared Application.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes – purpose is same.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Need is same based on growth projections that were part of the Application.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Yes – projections and calculations used in Application were developed by consultant Acquoneering, who prepared the Application. The City doesn't have reason or expertise to question whether the projected need is no longer the same due to change in calculations or data.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes – it remains in the public interest – it would provide water to the City’s water supply system for residences and businesses and other uses within the community.

6. Compliance: Please provide information evidencing compliance with the board’s order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: No requests for compliance information or reports received by the City since the grant of the application – None in files.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Per Application, reserved water not scheduled for full use until 2035. City will monitor need and determine means of perfection or allocation of reservation when necessary.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.

2. Need for the reservation appears questionable.

Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water from the reserved source remains available for appropriation through the provisional permit process. Additionally, the City of Plentywood is within the service area of the Dry Prairie Rural Water System. This system, when fully developed, will provide municipal water.

3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

The 2013 census identifies a population of 1,918 for the City of Plentywood. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Plentywood was 537 acre-feet per year, $[(250 \text{ gallons per day})(1,918 \text{ persons})(365 \text{ days per year})] \div [325,851] = 537 \text{ acre-feet per year}$. Existing “municipal” water rights for the City of Plentywood total 1,888 acre-feet. It appears that the City of Plentywood has sufficient water rights to provide for a population much greater than the current population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the City should not rely on the volume expressed in the existing water rights for growth. The reservation

process should be pursued to provide the legal right for future water supplies. Lastly, water remains available through the provisional permitting process.

4. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

The proposed plan in the original application for reserved water includes drilling one additional 500 GPM well and expansion of the city's distribution system. Two additional wells have been added to the City's water distribution system since the priority date of this water reservation. Both of these wells are authorized under separate water rights.

¹*City of Plentywood Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40R 166351 00	Statement of Claim	Active	12/31/1963	Recreation	Boxelder Creek		1,250.30
40R 675 00	Provisional Permit	Active	10/11/1973	Fish & Wildlife, Irrigation, Recreation	Box Elder Creek	1,230 GPM	194
40R 32722 00	Provisional Permit	Active	4/13/1981	Municipal	Groundwater	1,200 GPM	1,073
40R 39848 00	Ground Water Certificate	Active	12/23/1981	Municipal	Groundwater	60 GPM	15
40R 84491 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	500 GPM	235
40R 61803 00	Ground Water Certificate	Active	1/23/1986	Commercial	Groundwater	43 GPM	22.04
40R 61843 00	Provisional Permit	Active	5/1/1986	Municipal	Groundwater	1,500 GPM	800

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8448800

City of Poplar Montana

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	448 acre-feet per year
Source:	Groundwater

Summary:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response.

No response was received from the City of Poplar Montana.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose and public interest.
2. Reservant is non-compliant with the terms of the Final Order.
Senate Bill 330 was passed to mandate a review of all existing reservations as required through the Final Order granting water reservations on the Lower Missouri. *No response to the DNRC request for information was received from the Reservant.*
3. Need for the reservation appears questionable.
The City of Poplar currently receives all municipal water from the Dry Prairie Rural Water System. In addition the City of Poplar has 3 existing water rights, (all provisional permits), associated with town wells. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Finally, water from the reserved source remains available for future appropriation through the provisional permit process.
4. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
Information in the original application identifies a projected population of 1,213 persons by the year 2035 for the City of Poplar. The 2013 census identifies a population of 876 for the City of Poplar. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Poplar was $[(250 \text{ gallons per day})(876 \text{ persons})(365 \text{ days per year})] \div [325,851] = 245 \text{ acre-feet per year}$. Existing "municipal" water rights for the City of Poplar total 1,881 acre-feet. It appears that the City of Poplar has sufficient water rights to serve the current and projected population. All of the existing municipal water rights were issued after passage of the Montana Water Use Act and are thus beyond the purview of the statewide adjudication review.
5. In the 22 years since the Final Order establishing the reservation none of the reservation has been perfected.

City of Poplar Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40Q 4859 00	Provisional Permit	Active	2/19/1975	Municipal	Groundwater	500 GPM	606.00
40Q 28938 00	Provisional Permit	Active	1/23/1981	Municipal	Groundwater	450 GPM	800
40Q 57445 00	Provisional Permit	Active	3/4/1985	Municipal	Groundwater	700 GPM	475
40Q 84488 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	1,000 GPM	448

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7764700

City of Scobey

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	168 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Scobey on December 31th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The City of Scobey's water reservation granted 168 acre-feet per year at a rate of 0.72 million gallons per day. A portion of the water provided for in the original reservation has been appropriated. Two new wells were drilled in the early 1990's (Wells #6 and #7, respectively) to appropriate the reservation water and have been in service since. These two wells now provide much of the water needed in the City of Scobey. Wells #3 and #4 that were referred to in the original application are no longer in use. Total water pumped for the last few years is as follows:

- 2011: 214 acre-feet
- 2012: 260 acre-feet
- 2013: 231 acre-feet
- 2014: 182 acre-feet
- 2015: Not available as of submission date.

No change in the amount required is expected. Water usage has decreased slightly over the last few years. However, oil and gas leasing boomed in 2010 through 2012, with approximately half of the acres in Daniels County being leased. Most leases provided a 5-year primary term with an option to renew for another 5 years. Although limited development has occurred thus far (with only 5 or so wells being drilled, and none currently in production), there is still a significant prospect of water being needed for oil and gas drilling in the next few years.

Similarly, the City does not feel that a change in methodology is required. The original application was based on the water needs of a historical peak population of 1,726 persons in 1960. The population of Daniels County has stopped its decline, and the City is seeing some population growth going forward. The US Census Bureau estimates growth of 2.4% in Daniels County between 2010 and 2014.¹ Further,

the original application referred to the possibility of future oil and gas development, a prospect that has become quite likely in the last few years.

¹<http://quickfacts.census.gov/qfd/states/30/30019.html>

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes. The purpose of the reservation remains the same. The reservation's original purpose was to provide municipal water for future growth in a cost-effective manner. The City of Scobey has an ongoing interest in maintaining water rights capable of supporting future growth. The City provides water to homes, businesses, agricultural producers and service providers, and oil and gas companies for exploration. With the recent trend of growth and the prospect of further oil and gas development, the original purpose remains relevant and necessary for the City's continued growth.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes. The need still exists as identified in the application and order. As noted above, the population decline has reversed itself in the last few years. The City of Scobey and Daniels County are now seeing an increase in population, business activity, and possible oil and gas exploration. The City is still in need of the reservation as a way to ensure water is available to sustain the growth it is now experiencing and the growth that will happen in the future.

The City of Scobey is scheduled to eventually connect with the Dry Prairie Rural Water system. At that point, the extent of the City's need will be reduced. However, a contract was signed with Dry Prairie in June of 2001 with an approximate connect date within 10 years of that. This did not occur as planned and Dry Prairie has still not reached the City. And while the connection may eventually occur, until it does, the City must rely on its own ability to provide water for residents and businesses in the area. Thus, the City still has a strong interest in maintaining its own water rights separate and apart from any water Dry Prairie might eventually provide. If and when Dry Prairie Rural Water does connect to the City of Scobey the City plans on using our reservation for common public uses such as parks/poo., cemetery, etc.. and also for gas and oil drilling needs.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount is still appropriate. With the earlier wells (#2 and #3) out of service due to age, the wells drilled due to the reservation are providing the majority of the City's water at this time. Well #5 can yield approximately 0.64 mgd while the remainder of any water needed must come from Wells #6 and #7.

With the water scheduled to be fully appropriated by 2035, there still remains 20 years' worth of City growth to account for. If Scobey maintains a steady growth rate of 2.4% until 2035, the population at that time will reach 1,840, which is more than the peak population used in the original application. This figure does not take into account any additional pressures put on the City's water supply by oil and gas exploration or increases in agricultural use.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes. The reservation remains in the public interest as identified in the application and order. The water was originally reserved for future growth and for municipal uses. The City's current water system continues to serve city residents, businesses, agricultural producers and services, and is available for future oil and gas development. Further, the City has no other current resources to provide the water needed. As noted above, the Dry Prairie Rural Water system is behind schedule to connect with Scobey. And because Dry Prairie relies on grants and other government funding for its projects, the amount of funding from year to year has varied. And its progress toward the various municipalities for connection has similarly varied from year to year. Until it actually reaches the City of Scobey, which may be quite a few years in the future, the City's water reservation will be crucial to its continued growth.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: Attached for review are the following:

- a) Well Completion Logs for Wells #6 and #7.
- b) Usage statistics (total gallons pumped) for years 1979 through 2014;
- c) Letter from Mark A. Smith, P.E., concerning abandonment of Wells #2 and #3.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Only a portion of the reserved water has been put to use to date. The main deterrent of putting all of the reservation to use has been slower growth in the City than anticipated. Until 2010, the population of the City had been on a long, slow decline. Only within the last few years has the population rebounded and now we are seeing slow but significant growth. There are a few different reasons for this, including the oil and gas leasing boom, good agricultural years for producers and servicers, and the general population increase from the oil development in nearby North Dakota, the effects of which are being felt all over eastern Montana.

Moreover, the original application called for full appropriation of the water reservation by 2035, a full 20 years away. It is difficult, if not impossible to predict how the City's water needs may change so far in the future. As the application notes, a water reservation provides some certainty and stability to aid in its growth planning. The City benefits as long as there is additional water to "grow" into. And as a result, the City can confidently grow as long as the reservation remains.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. The need for the reservation does not appear to have materialized. In the submitted application the City of Scobey anticipated a negative growth and forecast a 2035 population of 1,111 people. As it has turned out the City has experienced negative growth. The 2013 population was 1,052, down from a 1980 population of 1,382. Additionally water from the reserved source remains available through the DNRC permitting process.

Additionally, the City of Scobey is within the service area of the Dry Prairie Rural Water System. This system, when fully developed, will provide municipal water.

3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

Information submitted in the original application identified three existing water rights with a combined total of 1,023 acre-feet per year. During the adjudication process two of these rights were withdrawn and the volume for the remaining water right was reduced to 324 acre-feet per year by the Montana Water Court to reflect “historic use”, (Masters Report, Case 40Q-28 adopted December 26th, 2007). On February 11th, 1993 the City of Scobey was awarded an additional water right through the provisional permit process for 1,129 acre-feet per year. The current volume available through all existing municipal water rights for the City of Scobey is now 1,453 acre-feet per year.

The 2013 population for the City of Scobey was 1,052 people, down from a 1980 population of 1,382. The original application projected a future daily use of 250 gallons per person per day within the town of Scobey and a projected 2035 population of 1,720 people. Using 250 gallons per person per day the 2013 water use for the City of Scobey was 295 acre-feet per year, $[(250 \text{ gallons per day})(1,052 \text{ persons})(365 \text{ days per year})] \div [325,851] = 295 \text{ acre-feet per year}$. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹

4. In the 22 years since the Final Order establishing the reservation none of the reservation has been perfected.

The proposed project as described in the original application for reserved water involves drilling one additional 500 GPM well which would be tied to the distribution system. In the submitted response to the DNRC request for information the applicant indicates that a portion of their reservation has been put to use through wells identified as #6 & #7. These wells are both authorized under Provisional Permit 40Q 84847-00 and are not a part of the City’s reservation.

¹City of Scobey Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40Q 24400 00	Statement of Claim	Active	9/2/1964	Municipal	Groundwater	500 GPM	324.00
40Q 77647 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	500 GPM	168
40Q 84847 00	Provisional Permit	Active	2/11/1993	Municipal	Groundwater	1,400 GPM	1,129

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8448400

City of Wibaux Montana

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	75 acre-feet per year
Source:	Groundwater

Summary:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response.

No response was received from the City of Wibaux Montana.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose and public interest.
2. Reservant is non-compliant with the terms of the Final Order.
Senate Bill 330 was passed to mandate a review of all existing reservations as required through the Final Order granting water reservations on the Lower Missouri. *No response to the DNRC request for information was received from the Reservant.*
3. Need for the reservation appears questionable.

In addition to this Water Reservation, the City of Wibaux has 3 existing water rights associated with town wells. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Additionally, water from the reserved source remains available for future appropriation through the provisional permit process.

4. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

Information in the original application identifies a projected population of 668 persons by the year 2035 for the city of Wibaux. The 2013 census identifies a population of 655 for the city of Wibaux. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the city of Wibaux was 186 acre-feet per year, $[(250 \text{ gallons per day})(665 \text{ persons})(365 \text{ days per year})] \div [325,851] = 186 \text{ acre-feet per year}$. Existing "municipal" water rights for the city of Wibaux total 535 acre-feet.

It appears that the city of Wibaux has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and

when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the city should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

5. In the 22 years since the Final Order establishing the reservation none of the reservation has been perfected.

City of Wibaux Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
39G 31541 00	Statement of Claim	Active	12/31/1956	Municipal	Groundwater	15 GPM	2
39G 31542 00	Statement of Claim	Active	12/31/1956	Municipal	Groundwater	175 GPM	283
39G 12618 00	Provisional Permit	Active	5/4/1977	Municipal	Groundwater	170.54 GPM	250.00
39G 84484 00	Water Reservation	Active	7/1/1989	Municipal	Groundwater	200 GPM	75

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8448200

City of Wolf Point Montana

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	504 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the city of Wolf Point on December 9th, 2015.

Reservant Response:

Required Reporting [36.16.120]

1. Summary: Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount granted is 504 acre feet per year, at a maximum rate of 1.44 million gallons per day. This water reservation has a priority date of July 1, 2015 as based on the water rights spreadsheet furnished by the NRCS. Over the past two years, 2014 and 2015, the City has used approximately 545 acre feet and 575 acre feet (projected) respectively. Maximum use for these two years occurred in July and August with 0.92 MGD and 0.87 MGD on average over the course of the month. The methodology used to determine the amount of water remains the same. As mentioned, future growth to the City of Wolf Point plays an important role in the success of the City.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes, the purpose remains the same as the original reservation application dated January 1991. The purpose of the reservation is for future beneficial municipal and industrial use. This water reservation will allow the City of Wolf Point to provide municipal water for future growth in a cost effective manner.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes, the need still exists. As stated in the application, the water reservation process encourages a comprehensive planning effort that focuses on the future needs of the community. Recently, the City of Wolf Point has experienced growth in development due to the Bakken Oil Field expansion. While the expansion has currently slowed, it is projected to once again increase in the near future. The City of Wolf Point has also experienced an increase in annexation applications, which is an indicator of projected future growth.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount stated in the application is intended to serve a population of 3,730 people by the year 2035. The estimated population in the year 2015 is 3,530. According to the current population data for the City of Wolf Point, the population is 2,621. This however does not account for the residents of the Fort Peck Tribes that reside on lands adjacent to the City. These lands are also served by the City of Wolf Point's Water and Sewer system. This tribal housing area includes approximately 300 households, with an average occupancy of 4 people per household. This equates to an additional 1,200 people, yielding a total of approximately 3,800 people using the system. Using information from the previous application, a water usage rate of 172 GPCD yields an average usage of 0.65 MGD, which equates to 732.18 Acre Feet per year. An average peaking factor of 3 is used to calculate the maximum projected flow of 1.95 MGD.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: Yes, the reservation remains in the public interest. The indirect benefits to the City include the economic benefit to the community and to the state by expanding both the property and income tax bases due to increased population. With increased tax revenue, the public will benefit through improved infrastructure in the state and local community. The loss of these tax revenues may result in the loss of opportunity for other development and increases in administrative costs.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The water reservation by the City of Wolf Point is used entirely within the state and within the Missouri River Basin. The City of Wolf Point has also identified a management plan for the design, development, and administration of its water reservation, and is capable of exercising reasonable diligence towards feasibly financing the project, and applying reservation water to beneficial use in accordance with the management plan. The City of Wolf Point's water reservation will not adversely affect any senior water rights.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: As noted in the application, increases in population are usually gradual, and are difficult to predict. Rapid growth is projected for the City due to recent oil and gas development in the region. While the drilling for oil has slowed considerably, the production of the wells is continuing, which is projected to have an effect on the population of the City of Wolf Point. Regular monitoring of flows is performed throughout the City in order to monitor water usage.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable.

Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water rights associated with the current city wells supply ample water for the current population and should these wells fail the underlying right can be applied to a replacement well. Water from the reserved source remains available for future appropriation through the provisional permit process. Additionally, the City of Wolf Point is within the service area of the Dry Prairie Rural Water System. This system, when fully developed, will provide municipal water.

3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

Information in the original application identifies a projected population of 3,730 persons by the year 2035 for the City of Wolf Point. The 2013 census identifies a population of 2,835 for the city of Wolf Point. The response received from the city of Wolf Point indicates that an additional 1,200 individuals outside the city are served by the municipal water supply bringing the total number of persons served to 4,035. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the city of Wolf Point was 1,130 acre-feet per year, [(250 gallons per day)(4,035 persons)(365 days per year)] = 1,130 acre-feet per year. Existing “municipal” water rights for the city of Wolf Point total 2,804 acre-feet.

It appears that the city of Wolf Point has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the city should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

In the original application the proposed plan to use reserved water includes drilling two additional 500 GPM wells and expansion of the City’s existing distribution system. The DNRC has no information to confirm the perfection of these wells. Because existing water rights for the City of Wolf Point exceed the current demand it is assumed that none of the reserved water has been put to use.

¹*City of Wolf Point Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
40S 1015 00	Statement of Claim	Active	10/2/1951	Municipal	Groundwater	1,000 GPM	164.00
40S 1014 00	Statement of Claim	Active	10/7/1951	Municipal	Groundwater	750 GPM	100
40S 1012 00	Statement of Claim	Active	7/29/1959	Municipal	Groundwater	2,200 GPM	740
40S 31275 00	Provisional Permit	Active	3/4/1981	Municipal	Groundwater	750 GPM	1,800
40S 32281 00	Ground Water Certificate	Active	3/25/1981	Commercial	Groundwater	10 GPM	1
40S 34353 00	Ground Water Certificate	Active	7/14/1981	Commercial	Groundwater	12 GPM	1.5
40S 84482 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	1,000 GPM	504

Appendix C

Upper Missouri Municipal Reservations

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7011900

City of Belgrade

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	645 acre-feet per year
Source:	Groundwater
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Belgrade on May 25, 2016.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The City of Belgrade is an incorporated municipality in the State of Montana. The City of Belgrade currently has a water reservation in place to meet future demands by municipal users. The water reservation consists of 645 acre-feet/year (af/yr) of water with a maximum diversion rate of 3.56 cubic feet/second (cfs) for year-round use. The diversion for the water is from groundwater wells drawing from the Gallatin Valley aquifer located within the City of Belgrade. There have been a total of two changes to the original water reservation (41H-M070119-00). The first was a change to utilize two new wells, (submitted October 7, 2003 by Morrison Maierle) and a second application was to change the place of use to include the current city limits (submitted April 17, 2008 by HKM Engineering). These changes to the water reservation are evidence of the growth and needs for existing water reservation (41H-M070119-00). There is no change in the original methodology for the estimated water amount. Enclosed are flow results from the City of Belgrade to document the past and current demands.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose for the original water reservation is unchanged. The original reservation was intended for the City of Belgrade to provide municipal water for future growth in a cost-effective manner. The original reservation was issued as a means of sound planning for providing users with an adequate future water supply.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The need still exists as identified in the order. The City of Belgrade has experienced the largest growth of any city in the State of Montana (per capita). The reservation is the only means to obtain/secure an early priority date for water that will be needed to meet projected municipal growth. It is important that the City of Belgrade have a water reservation to meet future municipal water demands in order for the community to grow and invest in its development. Competing water uses may prevent the City of Belgrade from obtaining or perfecting a water use permit in the future. Without a reservation, the City of Belgrade may have to go through a costly process of buying or condemning existing water rights to meet increasing demands and to provide municipal water for future growth in a cost-effective manner.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The original water reservation amount is still appropriate. The method of determining the amount of water requested for a water reservation by the City of Belgrade was based on a forecast of its future population to the year 2025, along with the estimated amount of water used per person. The methodology used by the City of Belgrade projected an average annualized (compounded population growth rate) of approximately 3.32 percent. The 1990 population of City of Belgrade was 3,411. The City of Belgrade's population forecast for the year 2025 is 10,426 people. The populations recorded in the 1990 census indicate that Belgrade's population has increased from 2,336 to 3,411 persons between 1980 and 1990 (an annualized rate of 3.86 percent). Based on the July 2015 census, the population of Belgrade was 7,798 people.

The City of Belgrade's six existing groundwater wells presently provide up to an average of 2.024 million gallons per day of water to the City of Belgrade (see attached water usage spread sheet). Currently the City of Belgrade is using on average 2,263.32 AF/YR. The reservation water is 645 acre-feet per year (AF) at a flow rate of 3.56 cubic feet per second, (CFS). The City of Belgrade's present use (7.2 cfs peak flow and average 2,263.32 af/yr volume) is less than its projected need in the year 2025 (11.1 cfs peak flow and 3,357 af/yr volume—see original report). Therefore the water use associated with the reservation for municipal uses by the City of Belgrade is reasonable and appropriate. (ARM 36.16.1078(3)(b).)

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: It is important that the City of Belgrade have a water reservation to meet future municipal water demands in order for the community to grow and invest in its development. Without a reservation, the City of Belgrade may have to go through a costly process of buying existing water rights to meet increasing demands and to provide municipal water for future growth in a cost-effective manner. Recently the City of Belgrade has looked into purchasing existing groundwater rights from a neighboring agricultural user. These rights were valued at approximately 6 million dollars. The value was based on water right purchases that the City of Bozeman had recently

completed. Failure to reserve water for future municipal use by the City of Belgrade is likely to result in an irretrievable loss of the source of water. ARM 36.16.107B(4)(d).)

Benefits of the City of Belgrade's water reservation were calculated on a willingness-to-pay basis. Belgrade's base rate is \$18.19 for 5,000 gallons = \$3.60/1,000 gallons value. The additional water provided by the water reservation will cost approximately \$.18/1,000 gallons, taken from the original Water Reservation plan). The direct benefits of the City of Belgrade's water reservation exceed the direct costs. (ARM 36.16.107B(4)(a).) Indirect benefits of the City of Belgrade's reservation may include secondary economic benefits to the community and to the state by expanding both the property and income tax base. Indirect costs of the loss of the reservation may include loss of opportunity for other development and increased administrative costs for securing additional water rights.

Except for the addition of nutrients and possible decreases in groundwater flows to the East Gallatin River, no moderate or major adverse environmental impacts are expected with the use of the City of Belgrade's water reservation

The City of Belgrade's water reservation will have no significant adverse impact to public health, welfare, or safety. Net benefits of the reservation to the City of Belgrade exceed the net benefits of not granting the water reservation. (ARM 36.16.107B(4)(b); ARM 36.16.102(9).)

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The City of Belgrade has identified a management plan for the design, development, and administration of its water reservation within the original application. The City of Belgrade has shown the need for the reservation by submitting two different Water Reservation change application, (October 7, 2003 by Morrison Maierle and April 17, 2008 by HKM Engineering). The City of Belgrade had, in the past, a noticeable rate of system leakage. However, in recent years the city rehabilitated the water distribution system to reduce the system's water losses. The city also has 100% of the water users metered to help reduce daily usage. With these implementations, the city has reduced its high daily use rates to an average of 260 gallons per capita daily (please note that the average usage includes the water usage from the airport).

The City of Belgrade has been proactive in the water conservation aspect by metering 100% of the water users and rehabilitating the existing water distribution system. These improvements resulted in the city's expansion while maximizing water usage. The City of Belgrade has shown it is capable of diligence towards feasibly financing users' water rates as well as applying the reservation water to beneficial use in accordance with the management plan.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The allotted reserved water has not been currently met due to water conservation methods as well as the total projected completion time of 2025 to fully develop the water reservation has not arrived. With further increasing growth, the City of Belgrade will continue to use and expand the current water distribution systems and wells associated with the reservation as it has done in recent years.

Please note, since the City of Belgrade is located in a Closed Basin, obtaining any new water right will be difficult and costly. It is critical that the City of Belgrade maintain the current water reservation

Department Review:

1. The City of Belgrade submitted two applications to change their water reservation. Through these changes the City currently utilizes 1,400 gallons per minute up to 565 acre-feet of water within an expanded city limit. The remaining unused portion of the City's reservation totals 200 gallons per minute up to 80 acre-feet.
2. The reservant appears to be in substantial compliance with the purpose, public interest & compliance.
3. Currently the Need for the reservation has not materialized. Although the City has submitted two change applications to their water reservation and is thus appears to be putting their reserved water to beneficial use, water available through existing water rights appears to be more than adequate to serve the existing population¹. Additionally, since the issue date for the City's reservation they have applied for and received one additional provisional permit for 602 acre-feet per year.
4. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. The 2013 census identifies a population of 7,798 people for the City of Belgrade. In their submitted response to the DNRC request for information the City provided an estimated 2025 population of 10,426 people. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using 250 gallons per person per day the 2013 water use for the City of Belgrade was be 2,184 acre-feet per year, $[(250 \text{ gallons per day})(7,798 \text{ persons})(365 \text{ days per year})] \div [325,851 \text{ gallons}] = 2,184 \text{ acre-feet per year}$. Existing "municipal" water rights for the City of Belgrade, (excluding the reservation), total 3,147 acre-feet per year.

It appears that the City of Belgrade has sufficient water rights to serve the current and projected population. However, these rights cannot be relied upon until a final decree is issued. The Montana Water Use Act (1973) initiated a statewide adjudication of all water rights that existed in the state prior to July 1, 1973. The act identifies historic beneficial use as the measure of a water right. The excess volume may not be deemed as valid as it was never put to use. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Based on this consideration, the Town should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

5. The City of Belgrade has submitted two applications to change their reservation. Through these changes the City has perfected 1,400 GPM up to 565 acre-feet per year of their reservation. The remaining unused portion of the City's reservation totals 200 gallons per minute up to 80 acre-feet per year.

City of Belgrade Municipal Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41H 6481 00	Statement of Claim	Active	12/31/1928	Municipal	Groundwater	550 GPM	360
41H 6482 00	Statement of Claim	Active	12/17/1948	Municipal	Groundwater	1,000 GPM	597
41H 24875 00	Provisional Permit	Active	10/22/1979	Municipal	Groundwater	1,200 GPM	680
41H 47751 00	Provisional Permit	Active	10/22/1979	Municipal	Groundwater	900 GPM	908
41H 70119 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	1,600 GPM	645
41H 60867 00	Provisional Permit	Active	4/11/1986	Municipal	Groundwater	1,100 GPM	602

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7011800

City of Bozeman

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	609 acre-feet per year
Source:	Sourdough Creek, (AKA Bozeman Creek)
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Bozeman on December 31, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: Water reservation 7011800 was granted by the Board of Natural Resources and Conservation on June 29, 1992 for 2,857 ac-ft of storage on Sourdough Creek at a maximum diverted flow rate of 47.3 cfs during spring runoff. The reservation was reduced by 2,248 ac-ft when the City of Bozeman and DNRC entered into a water supply contract for the additional water supply created by the Hyalite Reservoir expansion project completed in the fall of 1992. The reduced amount was identified as the City's expected reliable supply from the expansion project. The current reservation is 609 ac-ft at a maximum flow rate of 10.1 cfs and must be perfected by December 31, 2025. (BNRC, 1992, p. 16)

Water for the reservation has not been currently allocated as a means of storage diversion does not yet exist. However, numerous planning and infrastructure capital improvements projects have been completed to put the necessary diversion, conveyance, and treatment facilities in place to eventually perfect the reservation. Notable planning documents include: 1997 Water Facility Plan, 1999 Sourdough Creek Dam Feasibility Study, 2005 Water Facility Plan, 2011 Sourdough Reservoir Development Plan, and the 2013 Integrated Water Resources Plan, which were completed at a total aggregate cost of \$664k. Key capital infrastructure projects include the 2002 sourdough intake and transmission main replacement, built at a capacity of 19.8 MGD at a cost of \$465k, and the 2014 Sourdough Water Treatment Plant, built at an initial capacity of 22 MGD at a cost of \$36mln. These facilities were designed and constructed to provide sufficient conveyance and treatment capacity to handle the City's water rights, including the water reservation.

The calculation methodology utilized to determine the reservation amount necessary to meet the City's future water supply needs remains the same as the methodology employed in the original 1987 water reservation application and the 1991 amended water reservation request. (City of Bozeman, 1987) (City of Bozeman, 1991) The conclusions of law for the reservation recognized the methodology as suitable. (BNRC, 1992, p.15) Updates to population projections, per capita water demand, and reliable supply are made with this report and modify the amount needed for the reservation accordingly.

The City requests that water reservation 41H 70118 00 be modified to provide for a maximum volume of 915 ac-ft at a maximum flow rate of 24.0 cfs during spring runoff and to extend the date the reservation is required to be perfected to December 31, 2039.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose of the water reservation remains as identified in the application and order. The City requires its water reservation to provide adequate water supply for future municipal uses in a cost effective manner. Municipal uses are beneficial uses of water. (MCA § 85-2-102(4)(a))

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The City of Bozeman has perennially been the fastest growing community in the State of Montana since 2000. It was sixth-fastest growing micropolitan area in the nation according to U.S. Census Bureau statistics for 2013-2014. (Bozeman Daily Chronicle, March, 2015) In the first four months of 2015 the City alone accounted for 64% of the total number of new gas and utility hookups completed by NorthWestern Energy statewide. (Bozeman Daily Chronicle, April, 2015) The City has experienced rapid and sustained population growth and building development since the reservation was granted and relies upon the reservation to meet its future water supply needs. The Upper Missouri Basin in which the City is located is closed to new appropriations of water with limited exceptions contained in MCA § 85-2-343. Hydroelectric water rights in the basin, however, generally limit new appropriations of all types. (DNRC, 2015, p. 57) Preservation of the City's reservation rights is absolutely critical for the cost-effective development of water storage on Sourdough Creek as it avoids the acquisition of costly mitigation water supplies and eliminates the uncertainty and risk inherent with new appropriations permitting in closed basins.

The City's 30-year and 50-year future water supply needs were evaluated with the Integrated Water Resources Plan (IWRP). (City of Bozeman, 2013) A water supply deficit is predicted to occur in both the 30-year and 50-year planning horizons under moderate or high population growth scenarios. The predicted 30-year water supply gap ranges from 2,260 ac-ft to 6,660 ac-ft, with the 50-year gap ranging from 6,840 ac-ft to 17,750 ac-ft. (City of Bozeman, 2013, p. 3-8) Moderate growth was defined in the IWRP as a 2% population increase per year for the first 30 years followed by a 1% per year increase per year for the last 20 years. High growth on the other hand was defined as a 3% population increase per year for the first 30 years followed by a 2% per year increase for the last 20 years. (City of Bozeman, 2013, p. 3-6) The moderate growth scenario equates to a composite continuous annual growth rate

(CAGR) of 1.59%, whereas the high growth scenario equates to a composite CAGR of 2.60%.

Figure-1 depicts U.S. Census Bureau historical population data for the period 1930-2014. Figure-2 depicts population projections to the year 2040. The City's population grew by 84% over the period spanning 1990-2014 equating to a continuous annual growth rate (CAGR) of 2.57%. The CAGR experienced over this 24 year period matches closely the composite CAGR of 2.60% employed in the IWRP to predict the City's long range water supply needs. The upper range of the supply deficit predicted in the IWRP is a reasonable value as the population for which it was derived is nearly identical to the population extrapolated from the exponential growth trend occurring from 1990-2014.

To meet the City's long-range water supply needs, a diverse array of water supply alternatives was analyzed in the IWRP, including various water conservation scenarios. However, even with the implementation of an aggressive and effective water conservation program, the City still faces significant shortfalls in water supplies going forward. (City of Bozeman, 2013, p. 4-2) Meeting future demands will require utilizing all available solutions including conservation and traditional water supply infrastructure projects. Portfolios containing various water supply projects were arranged within the IWRP, with each portfolio containing water conservation savings, as conserved water is recognized as the most readily available and cost-effective source of new supply. The portfolio of supply projects selected to meet the City's long-range water needs contains a supply contribution of 915 ac-ft for water storage on Sourdough Creek. (City of Bozeman, 2013, Appendix D, p. 16) A storage project of this amount was deemed to be achievable when taking into consideration such contemporary facets as community values, public opinion, political realities, and environmental regulations. It is not the amount necessary to meet the totality of the City's future water needs, nor does it represent the reliable hydrologic yield of the drainage. The amount should in no way be construed to limit any storage rights that exist separate from the water reservation. The City requests the reservation volume be modified to 915 ac-ft commensurate with the Sourdough Creek storage recommendations of the IWRP.

4. **Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Table-1 presents the City’s currently available water sources and respective reliable supplies of its water rights. Reliable supplies of the direct flow rights for Lyman Creek, Sourdough Creek, and Hyalite Creek were updated with the Integrated Water Resources Plan. (City of Bozeman, 2013, p. 2-3) Reliable yields were originally evaluated in the 1997 Water Facility Plan. (City of Bozeman, 1997) The Hyalite Reservoir reliable supply accounts for a 20% reduction in the contracted water volume to provide for conveyance losses between the reservoir and the City’s Hyalite water intake. (DNRC, 1992, p. 2) The Hyalite Reservoir is operated by the Middle Creek Water Users Association (MCWUA) and it is the association that has historically applied the 20% conveyance loss to the City’s Hyalite Reservoir water. The previous citation mentions that the City ‘allows 20% losses’, seeming to imply that the loss is a self-imposed measure. This is dubious implication because the City does not regulate the supply of Hyalite Reservoir water as these powers reside with the MCWUA. Thus, the City is accurately properly described as being ‘subject to’ the conveyance loss as opposed to ‘allowing for’ it.

Table-1: Current available water sources and total annual reliable supply of water rights

Lyman Creek	1,790	ac-ft
Sourdough Creek	3,633	ac-ft
Hyalite Creek	1,489	ac-ft
Hyalite Reservoir ¹	4,570	ac-ft
Total	11,482	ac-ft

¹ Water Purchase Contract 91-B-1, less 20% conveyance loss

The reservation findings of fact did not recognize the Hyalite Reservoir conveyance loss as a measure that reduces the City’s total reliable supply. Instead, the contracted supply volume of Hyalite Reservoir water was taken to be the reliable supply (DNRC 1992, p. 4) Table-2 represents the updated reliable supply of water rights consistent with the manner in which the findings of fact (FOF) were laid out for the reservation. The updated total reliable supply of 12,624 ac-ft is used in modifying the reservation.

Table-2: Updated available water sources and total annual reliable supply of water rights, per FOF

Lyman Creek	1,790	ac-ft
Sourdough Creek	3,633	ac-ft
Hyalite Creek	1,489	ac-ft
Hyalite Reservoir ¹	5,712	ac-ft
Total	12,624	ac-ft

¹ Water Purchase Contract 91-B-1

Table-3 presents the City’s metered water plant yearly demands for raw water influent and finished water effluent over the period spanning 2000-2014. The updated overall average annual influent water

demand is calculated to be 156 gallons per person per day (gpcd). This rate is 38% less than the 250 gpcd rate that was considered to be reasonable in the reservation findings, a substantial reduction attributable to the City’s water conservation efforts. (BNRC, 1992, p. 13) The updated 156 gpcd value is used in modifying the reservation.

The amended reservation request applied a 1.9% CAGR from the 1990 population to arrive at a 2025 population projection of 43,788. (City of Bozeman, 1991, pp. 1, 6) The reservation findings of fact acknowledge the 43,788 population. (BNRC, 1992, p. 11) Figure-2 depicts how the actual populations for the period 1990-2014 compare to the 1.9% CAGR used in the amended reservation request. Actual populations since 1990 have grown at a CAGR of 2.57%, eclipsing the reservation projections by a significant margin. Extrapolating from the population in 1990, the 2.57% CAGR produces a 2025 population projection of 55,072. The CAGR is updated to 2.57% and is used in modifying the reservation.

The reservation volume contained in the order, notwithstanding additional water supplied by the Hyalite reservoir expansion, is 2,857 ac ft. (BNRC, 1992, p.16) This volume was determined by multiplying the 2025 population (43,788 persons) by per capita water demand (250 gpcd) to calculate the total water need, applying a conversion factor, then subtracting the reliable supply (9,399 ac-ft).

Table-3: Metered Plant Data

Year	Population	Metered Plant Data					
		Total Raw Water Plant Influent		Total Finished Water Plant Effluent		Avg Daily Raw Influent Demand	
		Gallons	ac-ft	Gallons	ac-ft	gpcd	MGD
2000	27,509	1,786,950,909	5,484	1,699,254,694	5,215	178	4.7
2001	28,873	1,870,370,351	5,740	1,774,948,178	5,447	177	4.9
2002	29,693	1,760,369,328	5,403	1,696,132,338	5,206	162	4.6
2003	30,811	1,967,222,943	6,038	1,904,655,817	5,846	175	5.2
2004	31,926	1,821,788,884	5,591	1,741,724,362	5,346	156	4.8
2005	33,280	1,960,155,701	6,016	1,813,776,045	5,567	161	5.0
2006	34,832	2,150,187,082	6,599	1,974,648,229	6,060	169	5.4
2007	35,944	2,119,637,493	6,505	1,976,795,031	6,067	162	5.4
2008	36,933	2,080,783,819	6,386	1,946,627,398	5,974	154	5.3
2009	37,101	1,965,078,586	6,031	1,856,006,335	5,696	145	5.1
2010	37,280	1,771,070,649	5,436	1,732,310,164	5,317	130	4.7
2011	38,099	2,066,646,033	6,343	1,824,182,661	5,599	149	5.0
2012	38,701	2,221,872,774	6,819	1,992,793,382	6,116	157	5.5
2013	39,812	2,060,926,224	6,325	1,929,595,390	5,922	142	5.3
2014	41,660	1,910,884,131	5,865	1,845,792,425	5,665	126	5.1
Averages		1,967,596,327	6,039	1,847,282,830	5,669	156	5.1

Table-4 presents the modified water reservation based on the updated values described above for reservation volume, reliable supply, per capita demand, and population growth rate. The italicized

values in the first row of the table reflect values contained in the reservation findings and order. The small difference between the reservation volume calculated in the table (2,864 ac-ft) and the reservation volume contained in the order is believed to be attributable to conversion factor rounding error. Table-4 determines that the modified reservation volume of 915 ac-ft is needed in the year 2039. The City thus requests that the perfection date of the reservation be modified to December 31, 2039.

The reservation order sets forth a flow rate of 47.3 cfs during spring runoff for the 2,857 ac-ft reservation volume and 10.1 cfs for the 609 ac-ft volume. (BNRC, 1992, p. 16) Thirty days of continuous diversion at these respective flow rates are necessary to provide for these respective reservation volumes. The City’s existing diversion and conveyance infrastructure for the Sourdough Creek supply source has a capacity of 19.8 MGD. (City of Bozeman, 2005, Section 3.A, p. 7) This value equates to a maximum flow rate of 30.6 cfs. The City’s existing direct flow water rights for Sourdough Creek total 6.6 cfs, thus there exists 24.0 cfs of capacity for the water reservation in the conveyance system. The City requests the reservation flow rate be modified to 24.0 cfs which allows for the maximal utilization of the significant investment it has made in its Sourdough Creek conveyance infrastructure.

Table-4: Modified Water Reservation

Year	Population	CAGR	Water Demand	Total Water Need	Reliable Supply	Reservation Need
			Gpcd	ac-ft	ac-ft	ac-ft
2025 ¹	43,788 ¹	1.90% ¹	250 ¹	12,263	9,399 ¹	2,864 ¹
2025	55,072	2.57%	156	9,624	12,624	-3,000
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2034	69,199	2.57%	156	12,093	12,624	-531
2035	70,977	2.57%	156	12,404	12,624	-220
2036	72,801	2.57%	156	12,722	12,624	98
2037	74,672	2.57%	156	13,049	12,624	425
2038	76,591	2.57%	156	13,385	12,624	761
2039 ²	78,559	2.57%	156	13,729	12,624	1,105

¹ Values contained in the City of Bozeman water reservation findings and order (BNRC, 1992)

² Year in which the calculated reservation need exceeds modified reservation volume of 915 ac-ft

The dry year storable volume for Sourdough Creek, defined as the dry year stream yield less required municipal and agricultural diverted volumes, is 2,500 ac-ft for the month of May. (City of Bozeman, 1987, p. 18) This monthly volume equates to a continuous flow rate of 40.7 cfs. Water is physically available to meet the modified reservation volume and flow amounts of 915 ac-ft and 24.0 cfs since these amounts are less than 2,500 ac-ft and 40.7 cfs respectively.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The reservation remains in the public interest more so now than ever before due to two primary reasons: 1) rapid and sustained population growth and development pressures in the City of Bozeman and greater Gallatin Valley; and 2) Legislative basin closure for the appropriation of new water rights in the Upper Missouri. These circumstances, in essence, create an environment in which the value of the reservation water will inevitably continue to escalate as new demands are exerted upon finite supply sources. Failure to reserve water for future municipal use will result in an irretrievable loss of resource development opportunity.

It is essential that a physically adequate and legally certain water supply be secured for future municipal uses if the economy of the City, and that of the greater Gallatin Valley, is to continue prospering. Municipal uses are beneficial uses of water and with these beneficial uses come economic amenity, jobs, and tax revenue that will support not only the growing local community, but the state of Montana as well. Municipal water supply systems are subject to strict treatment regulations and reporting standards which provide the highest level of human health protection for any type of water system in the state. These indirect economic benefits are difficult to quantify, but are nonetheless realized by the modified reservation.

Direct costs for the design and construction of storage on Sourdough Creek are estimated to be \$10,580/ac-ft, equating to a \$9.7mln overall cost for the 915 ac-ft modified reservation project. (City of Bozeman, 2013, Appendix D, p. 9) Annual operations and maintenance costs are estimated to be \$22/ac-ft/yr, or \$20k/yr per year (City of Bozeman, Appendix D, p. 10). Annual capital costs are estimated to be \$723k/yr for a \$9.7mln, 20-year bond, with an interest rate of 4.25%, compounded and paid semi-annually. Total annualized costs for the 915 ac-ft modified reservation amount are therefore estimated to be \$743k/yr.

A benefit accrues to municipal water customers on a cost per gallon basis if the City has 915 ac-ft of additional supply available to operate its water utility. Total revenue generated by the City's water utility in 2014 totaled \$7.05mln for 1.7bln gallons of metered water sold. Municipal customers thus paid an effective rate of \$4.15/1000 gallons in 2014. Adding the annualized capital cost for the modified reservation to the 2014 revenue generated equals \$7.8mln. This is the hypothetical 2014 revenue amount required to operate the utility with the modified reservation in place. Augmenting the 2014 metered sale volume with 915 ac-ft of additional supply totals 2.0bln gallons. This is the hypothetical amount of water sold to customers in 2014 to generate revenue with the modified reservation in place. Municipal customers would thus pay \$3.90/1000 gallons under the described 2014 hypothetical scenario, a customer savings of \$0.25/1000 gallons with the modified reservation in place.

The indirect environmental costs of the modified reservation are expected to be minimal and sufficiently mitigated by the NEPA compliance process that must be undertaken to construct water storage on Sourdough Creek upon federal lands managed by the USFS.

The net benefits of the granting the modified reservation exceed the net benefits of not granting the modified reservation.

6. Compliance: Please provide information evidencing compliance with the board’s order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The City’s reservation water is subject to conditions enumerated in Exhibit A and Exhibit B of the reservation order (BNRC, 1992, pp. 360, 361). Conditions imposed in Exhibit B are not applicable as the reservation has not been perfected. The City has remained in compliance with all conditions imposed in Exhibit A. Annual reports have not been submitted by the City because it has not been made aware of any such information the Board requires to be provided in said annual report.

This report is prepared in compliance with ARM 36.16.120 to provide information requested by the Department necessary to perform a ten-year review of the water reservation.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Over \$37mIn has been expended to complete numerous planning and infrastructure capital improvements projects necessary to put diversion, conveyance, and treatment facilities in place to eventually perfect the reservation. These projects include: 1997 Water Facility Plan, 1999 Sourdough Creek Dam Feasibility Study, 2002 sourdough intake and transmission main replacement, 2005 Water Facility Plan, 2011 Sourdough Reservoir Development Plan, 2013 Integrated Water Resources Plan, and the 2014 Sourdough Water Treatment Plant.

Feasibility level field investigations, designs, and cost estimates have been completed for two suitable dam sites on Sourdough Creek. (City of Bozeman, 1999) Both dam sites are located on the Gallatin National Forest, thus requiring compliance with the National Environmental Policy Act (NEPA) to permit construction. (City of Bozeman, 2011, Appendix F) A project development framework has been prepared to identify and understand specific elements needed to successfully navigate the NEPA compliance process. An integrated water supply approach was encouraged to define the water storage need and to evaluate alternatives. (City of Bozeman, 2011, Executive Summary) Development of water storage on Sourdough Creek is inherently protracted and complicated by political realities, community values, and public opinion.

The City has clearly demonstrated reasonable and actionable diligence in perfecting its water storage reservation through substantial investments of time and money.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. The Need for the reservation has not yet materialized. The City has been successful in obtaining numerous ground water certificates and water use permits through conventional methods¹. While it appears that the City will be able to utilize the full extent of the reservation by the mandated perfection date of December 31, 2025 they have requested an extension through

December 31, 2039 for perfection to allow time to expand storage on Sourdough, (Bozeman) Creek. Additionally, the City has requested an increase in the volume of the reservation.

3. The amount granted was far less than the demand that has developed. However, as stated above, Bozeman has been successful in appropriating water through permits and certificates and has thus far kept up with the ever increasing demand of the fastest growing city in the state. Existing water rights for municipal use currently held by the City of Bozeman total 13,217 acre-feet per year. Additionally, the City holds water rights for irrigation of City parks that total 1,131 acre-feet. In the response received from the City the reliable supply of water for the City of Bozeman totals 12,624 acre-feet per year and includes 5,712 acre-feet per year of contract water purchased from the Middle Creek Water Users Association. Thus, while it becomes apparent that the City is in need of additional water, water rights for the City of Bozeman exceed the existing supply.

Through their response to the DNRC request for information the City has requested an increase in storage during spring runoff. Currently the reservation for the City of Bozeman is for a maximum flow rate of 10.1 CFS up to 609 acre feet per year. The City requests an expansion of the existing reservation to a maximum flow of 24.0 CFS during spring runoff up to 919 acre feet per year.

4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

¹City of Bozeman Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41H 140882 00	Statement of Claim	Active	9/1/1864	Municipal	Lyman Creek	3.75 CFS	2,740.20
41H 99632 00	Statement of Claim	Active	9/30/1865	Irrigation	Sourdough Creek	8 CFS	
41H 140873 00	Statement of Claim	Active	7/31/1866	Municipal	Sourdough Creek	67 GPM	109.5
41H 140880 00	Statement of Claim	Active	7/31/1866	Municipal	Sourdough Creek	81 GPM	127.8
41H 154135 00	Statement of Claim	Active	7/31/1866	Municipal	Hyalite Creek	2.5 CFS	758.5
41H 140874 00	Statement of Claim	Active	12/31/1866	Municipal	Sourdough Creek	1.25 CFS	912.5
41H 140875 00	Statement of Claim	Active	12/31/1866	Municipal	Sourdough Creek	1.25 CFS	912.5
41H 140876 00	Statement of Claim	Active	12/31/1866	Municipal	Sourdough Creek	1.25 CFS	912.5
41H 140878 00	Statement of Claim	Active	12/31/1866	Municipal	Sourdough Creek	1.25 CFS	912.5
41H 154134 00	Statement of Claim	Active	10/31/1869	Municipal	Hyalite Creek	1.25 CFS	379.25
41H 154138 00	Statement of Claim	Active	10/31/1869	Municipal	Hyalite Creek	1.25 CFS	379.25
41H 154137 00	Statement of Claim	Active	7/31/1873	Municipal	Hyalite Creek	2.5 CFS	758.5
41H 154136 00	Statement of Claim	Active	7/31/1876	Irrigation	Hyalite Creek	282.8 GPM	191.14
41H 140877 00	Statement of Claim	Active	12/31/1877	Municipal	Sourdough Creek	283 GPM	456.3
41H 140879 00	Statement of Claim	Active	12/31/1877	Municipal	Sourdough Creek	283 GPM	456.3
41H 140883 00	Statement of Claim	Active	5/1/1881	Municipal	Lyman Creek	2.2 CFS	1,606
41H 99633 00	Statement of Claim	Active	4/26/1892	Irrigation	UT East Gallatin River	1.38 CFS	418.69
41H 6743 00	Statement of Claim	Active	12/31/1895	Irrigation	Spring Creek	1.88 CFS	348
41H 6741 00	Statement of Claim	Active	12/5/1946	Domestic Stock	Groundwater	20 GPM	3
41H 20736 00	Provisional Permit	Active	10/23/1978	Municipal	Hyalite Creek	3.2 CFS	1,330
41H 57075 00	Provisional Permit	Active	7/10/1984	Municipal	Groundwater	300 GPM	200.16
41H 57084 00	Provisional Permit	Active	7/16/1984	Irrigation	Groundwater	100 GPM	21
41H 70118 00	Water Reservation	Active	7/1/1985	Municipal	Sourdough Creek	47.3 CFS	2,857
41H 61576 00	Ground Water Certificate	Active	7/14/1986	Lawn & Garden	Groundwater	25 GPM	5
41H 61642 00	Ground Water Certificate	Active	9/23/1986	Municipal	Groundwater	99 GPM	46.81
41H 61643 00	Provisional Permit	Active	9/23/1986	Municipal	Groundwater	300 GPM	200.18
41H 69604 00	Ground Water Certificate	Active	9/30/1988	Irrigation	Groundwater	95 GPM	4.55
41H 69605 00	Ground Water Certificate	Active	9/30/1988	Irrigation	Groundwater	40 GPM	10.5
41H 69606 00	Ground Water Certificate	Active	9/30/1988	Irrigation	Groundwater	95 GPM	37
41H 69607 00	Ground Water Certificate	Active	9/30/1988	Irrigation	Groundwater	50 GPM	10.25
41H 79578 00	Provisional Permit	Active	11/4/1991	Irrigation	Groundwater	170 GPM	37.56
41H 100663 00	Provisional Permit	Active	1/15/1997	Irrigation	Groundwater	60 GPM	6.78
41H 110068 00	Ground Water Certificate	Active	12/2/1999	Lawn & Garden Commercial	Groundwater	20 GPM	1.19
41H 110141 00	Provisional Permit	Active	1/7/2000	Irrigation	Groundwater	230 GPM	30
41H 110151 00	Ground Water Certificate	Active	1/19/2000	Municipal	Groundwater	10 GPM	6.67
41H 110152 00	Ground Water Certificate	Active	1/19/2000	Municipal	Groundwater	35 GPM	4.64
41H 113315 00	Provisional Permit	Active	9/19/2000	Irrigation	Groundwater	180 GPM	16
41H 30021030	Ground Water Certificate	Active	3/31/2006	Irrigation Other	Groundwater		
41H 30030233	Ground Water Certificate	Active	11/15/2007	Lawn & Garden	Groundwater		
41H 30041507	Ground Water Certificate	Active	2/28/2008	Irrigation	Groundwater		
41H 30041508	Ground Water Certificate	Active	2/28/2008	Irrigation	Groundwater		
41H 30041509	Ground Water Certificate	Active	2/28/2008	Irrigation	Groundwater		
41H 30047202	Ground Water Certificate	Active	7/8/2009	Lawn & Garden	Groundwater	35 GPM	3.5
41H 30047203	Ground Water Certificate	Active	7/8/2009	Lawn & Garden	Groundwater	35 GPM	0.5
41H 30049222	Ground Water Certificate	Active	7/28/2010	Municipal	Groundwater	35 GPM	6.96
41H 30050176	Ground Water Certificate	Active	1/12/2011	Lawn & Garden	Groundwater	35 GPM	1.13
41H 30065894	Ground Water Certificate	Active	4/3/2013	Lawn & Garden	Groundwater	35 GPM	

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7258300

Town of Chester

Reservation Description:

Final Order: Upper Missouri River Basin, Issued July 1, 1992
 Priority Date: July 1, 1985
 Volume: 340 acre-feet per year
 Source: Marias River (Lake Elwell)
 Perfection Date: December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response.

No response was received from the Town of Chester.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose and public interest.
2. Reservant is non-compliant with the terms of the Final Order. Senate Bill 330 was passed to mandate a review of all existing reservations as required through the Final Order and codified as §85-2-316 (MCA). *No response to the DNRC request for information was received from the Reservant.*
3. Currently the Need for the reservation has not materialized. The Town of Chester currently uses water from the Marias River (Lake Elwell) through contract with the Bureau of Reclamation. Additionally, Chester is within the service area of the Rocky Boy North Central Montana Regional Water Project and will rely on the project for future appropriations.
4. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. All municipal water for the Town of Chester is currently provided through contract with the Bureau of Reclamation.
5. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

Town of Chester Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41P 72583 00	Water Reservation	Active	7/1/1985	Municipal	Marias River (Lake Elwell)	417.38 GPM	340

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7257800

City of Cut Bank

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	400 acre-feet per year
Source:	Cut Bank Creek
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response.

No response was received from the City of Cut Bank.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose and public interest.
2. Reservant is non-compliant with the terms of the Final Order. Senate Bill 330 was passed to mandate a review of all existing reservations as required through the Final Order and codified as §85-2-316 (MCA). *No response to the DNRC request for information was received from the Reservant.*
3. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population within the proposed service area.¹ Additionally, water remains available for future appropriation through the provisional permit process. Finally, Cut Bank is within the service area of the Rocky Boy North Central Montana Regional Water Project and will rely on the project for future appropriations when the project becomes operational.
4. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information in the original application identifies a projected population of 6,069 persons by the year 2025 for the City of Cut Bank. The 2013 census identifies a population of 2,996 for the City of Cut Bank. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Cut Bank was [(250 gallons per day)(2,996 persons)(365 days per year)] ÷ [325,851]= 839 acre-feet per year. Existing “municipal” water rights for the City of Cut Bank total 6,757 acre-feet.

It appears that the City of Cut Bank has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and

when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the City should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

5. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

¹ *City of Cut Bank Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41L 175886 00	Statement of Claim	Active	10/23/1914	Municipal	Cut Bank Creek	7.74 CFS	5,610
41L 175887 00	Statement of Claim	Active	7/9/1940	Municipal	Groundwater	1.67 CFS	1,122
41L 178252 00	Statement of Claim	Active	12/31/1942	Municipal	Groundwater	1.89 CFS	25
41L 72578 00	Water Reservation	Active	7/1/1985	Municipal	Cut Bank Creek	1.42 CFS	400

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7189500

City of East Helena

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	258 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of East Helena on December 23th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: East Helena was granted a water reservation of 258 acre-feet per year (AF) at a flow rate of 0.93 cubic feet per second (CFS). The source is groundwater for year-round municipal use. The final order sets a perfection date of December 31, 2025.

East Helena expects to fully use the water reservation by 2025. Current environmental cleanup and remediation activities at the Asarco Smelter Plant Site will lead to increased development opportunities. East Helena has built a new wastewater treatment plant and is currently at less than half capacity. The entire amount of the water reservation is still anticipated to be needed to satisfy the projected water demand (flow rate and volume) proposed in the change applications.

No change in the methodology originally used to determine the amount is required. The amount granted is based on population projections and development in the area, which have not changed. A Growth Policy was completed in 2014 (City of East Helena 2014) and supports a projected population growth through 2030. (The current population of East Helena exceeds the projected population identified in the Final Order, indicating East Helena is exceeding the projections estimated in 1990).

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes. East Helena requested a water reservation to meet future demands by municipal and industrial users. The purpose remains the same as identified in the application and order.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes. East Helena requested a water reservation to meet future demands by municipal and industrial users. The need remains the same as identified in the application and order. Based on population growth projections, attractive new property for development after the Asarco Smelter site is remediated, and proximity to the City of Helena makes East Helena expansion a reality. In addition, the uncertainty associated with the groundwater plume from the smelter extending north into the valley may result in outlying residents needing to be supplied by East Helena water, thereby increasing the demand on the municipal water supply. The population of East Helena listed in the 2010 census was 1,984. Text taken from the 2014 Growth Policy and provided below supports this need:

“With the annexation of the ASARCO lands in 2009, the area within the City of East Helena grew from 550 acres to 2,575 acres. The 2009 Growth Policy indicates that only 1% of the land area within the City of East Helena prior to annexation was vacant and available for development. Currently there is approximately 2,000 acres of vacant developable land within the City of East Helena, or 75% of the land area of East Helena is vacant developable land. This dramatic increase in the land area is unprecedented in most communities and provides East Helena with an excellent opportunity to plan for future land uses and expansion within its boundaries.”

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Yes. The water reservation amount is still appropriate. According to the 2014 Growth Policy, East Helena is a high growth community. Text from the Growth Policy states:

“If the current rate of growth were to continue over the next 20 years, as measured by the trend between 2000 and 2010 (Scenario 1) and using linear regression, the city of East Helena could reach a population of more than 3,006 by the year 2030 at an average annual average growth rate of 2.1 percent. Within the currently defined city boundaries, population density at that point would reach 748 people per square mile.”

Additionally, more future growth is projected in the 2014 Growth Policy when compared with the projections used in the water reservation application.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The water reservation remains in East Helena’s public interest as identified in the application and order. Based on the growth and development both within the current East Helena and its expanded boundaries, and uncertainty described above, East Helena is opening discussions on perfecting the water reservation. Use of the reservation is in the public interest of East Helena and potentially adjacent homeowners. East Helena needs the reservation to meet projected future demands identified in the 2014 Growth Policy and used to make this assessment.

- 6. Compliance:** Please provide information evidencing compliance with the board’s order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: As explained above, the water reservation has not yet been put to use. Thus East Helena is in compliance of the order with the 2025 perfection year. East Helena is beginning discussion on development of the reservation. No general plans, detailed plans, annual and biennial reports have been prepared specific to the water reservation.

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: As described above, East Helena is beginning to discuss development of the water reservation to meet the objectives of the order. The existing water distribution system will be used once the new well is drilled and the water reservation is put on line.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Currently the need for the reservation has not materialized. Water available through existing water rights appears to be more than adequate to serve the existing and projected population¹.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information in the original application identifies a projected population of 2,752 persons by the year 2015 for the City of East Helena. The 2013 census identifies a population of 2,060 for the City of East Helena. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of East Helena was 577 acre-feet per year $[(250 \text{ gallons per day})(2,060 \text{ persons})(365 \text{ days per year})] \div [325,851 \text{ gallons}] = 577 \text{ acre-feet per year}$. Existing “municipal” water rights for the City of East Helena total 7,364 acre-feet per year. It appears that the City of East Helena has sufficient water rights to serve the current population. However, these rights cannot be relied upon until a final decree is issued. The Montana Water Use Act (1973) initiated a statewide adjudication of all water rights that existed in the state prior to July 1, 1973. The act identifies historic beneficial use as the measure of a water right. The excess volume may not be deemed a valid as it was never put to use. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and

when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the City should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. During this 24 year interval the City has applied for and received a total of 1,841 acre-feet of water through Provisional Permits and Groundwater Certificates.

¹City of East Helena Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41I 113659 00	Statement of Claim	Active	4/1/1865	Municipal	McClellan Creek	1.38 CFS	993.71
41I 113658 00	Statement of Claim	Active	8/1/1866	Municipal	McClellan Creek	3.13 CFS	2,258.44
41I 113654 00	Statement of Claim	Active	8/2/1954	Municipal	Groundwater	100 GPM	162.22
41I 113657 00	Statement of Claim	Active	7/22/1955	Municipal	Groundwater	100 GPM	162.22
41I 113655 00	Statement of Claim	Active	3/22/1965	Municipal	Groundwater	600 GPM	973.33
41I 113656 00	Statement of Claim	Active	4/10/1965	Municipal	Groundwater	600 GPM	973.33
41I 44698 00	Ground Water Certificate	Active	5/5/1982	Municipal	Groundwater	10 GPM	1
41I 71895 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	417 GPM	258
41I 62231 00	Provisional Permit	Active	5/16/1986	Municipal	Groundwater	450 GPM	160
41I 70576 00	Provisional Permit	Active	12/12/1988	Municipal	Groundwater	600 GPM	840
41I 70577 00	Provisional Permit	Active	12/12/1988	Municipal	Groundwater	600 GPM	840

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7215400 Town of Fairfield Montana

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	325 acre-feet per year
Source:	Groundwater
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the town of Fairfield on December 16th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The town of Fairfield water reservation #72154-41K was approved on July 1, 1985, a grant for the following amount and flow of water: 0.43 CFS and 325 AF/Year. As of November 5, 2015, there is no change in the amount required to satisfy the purpose and need of the Town's reservation, nor has there been any change in the methodology originally used to determine the amount.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose of the reservation for the Town of Fairfield remains the same as identified in the application and order. The purpose remains to provide an adequate water supply for municipal and industrial use as well as for future growth and development.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The need still exists as identified in the application and order.

- a) A reservation is the only means to obtain an early priority date for water that will be needed to meet projected municipal and industrial growth. In the future, water may be appropriated by competing agricultural, industrial, and in-stream users.
- b) It is important that the Town of Fairfield have a water reservation to meet future municipal and industrial water demands in order for the community to prosper and develop.

- c) Competing water uses may prevent the Town of Fairfield from obtaining or perfecting a water use permit in the future. Without a reservation, the Town of Fairfield may have to go through a costly process of buying or condemning existing water rights to meet increasing demands.

Changes in Finding of Fact:

Per the attached General Abstract, the maximum rate of diversion is 193 GPM, which equates to 0.43 CFS, rather than the maximum rate of diversion of 0.34 CFS stated in Paragraph II.A.2 of the attached Application of City of Fairfield Water Reservation No. 72154-41K

Due to water shortages in late winter and early spring, Fairfield drilled an eighth well (Well #1A) in the spring of 2006.

Fairfield now has two elevated water storage tanks with a combined capacity of 210,000 gallons in lieu of the proposed water pond or ice mound storage as stated in the attached application (Paragraph II.A.2). The tanks provide adequate storage, consistent system pressure and greatly reduce water loss through evaporation.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The original reservation amount of 0.43 CFS and 325 AF/Year is still appropriate and in accordance with the application and order.

Determination of Amount Needed: The supplying shallow aquifer along the Fairfield Bench is directly affected by the existing irrigation canal system. When the canals are filled, usually in May, the aquifer supplies are plentiful. When the canal water is shut down, late August, the aquifer begins to drop steadily until the next May. That is the reason the Town drilled an additional well in 2006.

The aquifer is extremely susceptible to drought. Such drought started in 1998 continuing until 2004 when, in April, the Town was forced to go to "Emergency Rationing" only. At school, lunch was served on paper plates and high school bathrooms were locked. Students waited in line at outhouses between classes and washed with liquid hand sanitizer. Employees of many businesses used outhouses. Cooking and coffee were made from bottled water. No lawn watering or car washing were allowed, laundry was taken out of town, and residents were asked to flush toilets only once a day. The Town underwent extensive leak detection and repaired them. The Town spent \$1,400 on bottled water and \$1,500 on outhouse rental. On May 9, 2004, the irrigation canals were filled and, by May 15, aquifer levels were back to normal.

The Town completed an extensive water improvement project in 2014. Sections of old main lines were replaced in order to link the system and provide adequate volume to fire hydrants. Residential and business water supplies were metered and electronic telemetry was installed to monitor pumps, storage tanks, and well houses.

NCI Engineering ran a telemetry report on the pumping of all wells from May 1, 2014 through June 30, 2015:

Begin	End	Volume Pumped (gallons)	AF Pumped	Percent of Pumped Water vs. 325 AF/YR Reserve
May 1, 2014	April 30, 2015	111,370,000	321.805	105.17%
June 1, 2014	May 31, 2015	105,440,000	323.605	99.57%
July 1, 2014	June 30, 2015	89,991,000	276.191	84.98%

The usage reflects high watering periods for lawn irrigation, averaging 96.57% of reservation pumped. For part of the July 1, 2014 thru June 30, 2015 period, Well 4 was not reporting to telemetry. There have been two recent residential annexations into the Town infrastructure. In 1990, the population of Fairfield was 660. In 2010, the population was 708. The Town remains forecasted for a population of 888 by 2025.

Documented water usage and expected growth demonstrate the amount of reservation is still appropriate and in accordance with the application and order.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The reservation remains in the public's best interest.

Failure to reserve water for future municipal and industrial use by the Town of Fairfield is most likely to result in an irretrievable loss of resource development opportunity.

The direct benefits of the Town's water reservation exceed the direct costs. Residential base usage rates were \$37.50/month before the Town of Fairfield decided, in 2011, to proceed with a major water improvement project. After all governmental approvals, the Town raised rates twice; the second was upon project completion, which raised rates to \$45.00/month. The Town has not had one complaint regarding the increase; however, there have been many commendations about the improved pressure, quality, and quantity of water.

Regular water testing proves there is no adverse impact to public health, welfare, or safety.

The Town has established that there is a reasonable likelihood that future in-state competing water uses would consume the water available for the purpose of its reservation.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: There were no orders of compliance listed in the final order of reservation. In DNRC's report of findings of fact, there is reference to the possible need for one or two additional wells under C.6. Enclosed is a copy of a Montana Well Log Report for Well 1A, which is referenced elsewhere in this report.

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: A satisfactory level of perfection of the water reservation has been achieved. Refer to the telemetry report from NCI Engineering on page 2 of this report. The average usage of those three reporting periods is 96.57% of the 325 AF/Year reservation. Again, during a portion of the third period, Well 4 was not reporting to telemetry; therefore, the drop in usage to 84.98% during high use time.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population.¹ Water

rights associated with the current city wells supply ample water for the current population and should these wells fail the underlying right can be applied to a replacement well. It is additionally noted that there appears to be some duplication of information included in the files for the individual water rights.

3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information in the original application identifies a projected population of 888 persons by the year 2025 for the town of Fairfield. The 2013 census identifies a population of 724 for the town of Fairfield. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the town of Fairfield was 203 acre-feet per year, $[(250 \text{ gallons per day})(724 \text{ persons})(365 \text{ days per year})] \div [325,851 \text{ gallons}] = 203 \text{ acre-feet}$. Existing “municipal” water rights for the town of Fairfield total 2,246 acre-feet.

It appears that the town of Fairfield has sufficient water rights for a population much greater than the current or projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the city should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. During this 24 year interval the town has applied for and received a total of 483 acre-feet of water through Provisional Permits.

¹Town of Fairfield Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41K 1976 00	Statement of Claim	Active	12/31/1945	Municipal	Groundwater	500 GPM	800
41K 1977 00	Statement of Claim	Active	6/1/1951	Municipal	Groundwater	100 GPM	160.00
41K 1978 00	Statement of Claim	Active	5/9/1963	Municipal	Groundwater	150 GPM	240
41K 1979 00	Statement of Claim	Active	12/13/1977	Municipal	Groundwater	200 GPM	300
41K 22737 00	Provisional Permit	Active	5/14/1979	Municipal	Groundwater	300 GPM	100
41K 47196 00	Provisional Permit	Active	3/30/1982	Municipal	Groundwater	300 GPM	383
41K 72154 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	193 GPM	325

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7188900

City of Fort Benton

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	124 acre-feet per year
Source:	Groundwater
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response.

No response was received from the City of Fort Benton.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose and public interest.
2. Reservant is non-compliant with the terms of the Final Order. Senate Bill 330 was passed to mandate a review of all existing reservations as required through the Final Order and codified as §85-2-316 (MCA). *No response to the DNRC request for information was received from the Reservant.*
3. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population within the proposed service area.¹ Additionally, water remains available for future appropriation through the provisional permit process.
4. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information in the original application identifies a projected population of 2,489 persons by the year 2025 for the City of Fort Benton. The 2013 census identifies a population of 1,490 for the City of Fort Benton. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Fort Benton was $[(250 \text{ gallons per day})(1,490 \text{ persons})(365 \text{ days per year})] \div [325,851] = 417 \text{ acre-feet per year}$. Existing “municipal” water rights for the City of Fort Benton total 913 acre-feet.
It appears that the City of Fort Benton has sufficient water rights to serve the current and projected population. Through the adjudication review the City’s only pre 1973 water right was amended to reflect historic use and has been decreed by the Montana Water Court.
5. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

¹ City of Fort Benton Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41Q 26984 00	Statement of Claim	Active	6/1/1886	Municipal	Missouri River	2.5 CFS	907.20
41Q 58118 00	Provisional Permit	Active	3/29/1985	Municipal	Missouri River	200 GPM	
41Q 71889 00	Water Reservation	Active	7/1/1985	Municipal	Missouri River	1.43 CFS	124.00
41Q 30064446	Ground Water Certificate	Active	11/8/2012	Municipal	Groundwater	35 GPM	5.88

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7189000

City of Great Falls

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	6,022 acre-feet per year for municipal and industrial uses and 467 acre-feet per year for irrigation
Source:	Missouri River & Sun River
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Great Falls on December 29th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The Board's order approved a water reservation of 6,022 acre-feet per year (AF) at a flow rate of 11.5 cubic feet per second, (CFS) for municipal and industrial uses and 467 AF per year at a flow rate of 8.9 CFS from April 1 to October 1 of each year for parks irrigation.

On August 22, 2008, the DNRC granted change authorization no. 41K-30016816. This change authorized a portion of the reservation to be used through an arrangement with Great Falls for industrial use at the Southern Montana Electrical Generation & Transmission Cooperative, Inc. Highwood Generating Station. To facilitate this use, an additional point of diversion and modification to the authorized place of use was necessary. The Highwood Generating Station originally was proposed as a 250 MW coal-fired plant. Due to matters beyond the City's control, the Highwood Generating Station was not completed as a coal-fired generating facility, as originally contemplated, which changed the facility's anticipated water demands.

On November 20, 2010, the DNRC issued a Preliminary Determination to Grant Change for application no. 41K-30047489, (*This should read 41-K30047486, DNRC edit*). This change authorization reflected the change to the Highwood Generating Station from a coal-fired facility to a gas-fired facility. Great Falls sought to add five wells as additional points of diversion for the existing reservation. As part of this change process, the DNRC found that the purpose and need contemplated by the reservation was met.

Although Great Falls has obtained and received approval to make certain changes to the original reservation, and has been diligent in attempting to put the reserved water right to beneficial use within its originally contemplated purpose and need, the methodology used for the reservation remains largely unchanged. That methodology was based on projections of future population growth, with an expectation that population growth would result in both industrial and general municipal water demands growing commensurately. Although the population of Great Falls has not grown quite as rapidly as projected in the original application, recent information from the Montana Department of Commerce indicates that growth in Cascade County is expected to increase between now and 2025 (http://ceic.mt.gov/Population/PopProjections_AllCountiesPage.aspx); see also Great Falls Growth Policy Update 2013 at 2 (“According to population projections reported by the Montana Department of Commerce, the City is projected to steadily grow through the 2025 planning horizon and beyond”). The City of Great Falls historically has made up more than 70 percent of the Cascade County population, so these trends should remain accurate for the City also. Based on these trends and the efforts made to date, there is no expected change to the purpose and need for the reservation as it currently exists.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: As stated in the original application, the purpose of the water reservation is to allow Great Falls to provide water for future growth in a cost effective manner. The City’s application to reserve water for irrigation, municipal and industrial use was based primarily on demographic data suggesting that water would be needed to supply an additional 24,000 residents by the year 2025. This purpose recognizes the uncertainties of the availability of water in the Missouri River basin. In the change applications that Great Falls has submitted, the DNRC also has recognized the validity of this purpose. Therefore, the purpose remains the same as set forth in the application and order.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The application identifies the need as an expectation that competition for available water sources will continue to increase as time goes on. The order adopting the reservation implicitly recognizes this need. The need has manifested itself during the time the reservation has been in place. For example, PPL Montana, the previous owner of the hydropower facilities in Great Falls, objected to the change applications that Great Falls submitted. Great Falls also has had to contend with objections in the adjudication process. In Water Court case no. 41QJ-30, several years of hearings and filings were necessary to resolve objections to Great Fall’s main municipal water rights. In Water Court case no. 41QJ-7, Great Falls is continuing to work to resolve objections to its efforts to obtain a portion of the water rights formerly used at the Anaconda Smelter facility. These objections illustrate the difficulty in locating and obtaining water rights to accommodate the purpose identified in the application, and the likelihood that objections will be raised in future permit or change applications.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount set in the order adopting the reservation remains appropriate. In 2008, Great Falls commissioned a study to identify whether the amount of water rights held by the City is sufficient to meet future needs. This report, titled “A Water Strategy for the Future” (Water Rights Solutions, Inc.,

1/4/2008) evaluated Great Falls' current portfolio of water rights, including the water reservation, and indicated that the City may need to acquire additional water rights to meet future needs. Whether that ultimately is necessary remains uncertain, but this study shows that the amount designated in the water reservation is a key component of Great Falls' water supply to meet its anticipated needs.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The order granting the reservation indicates that the reservation is in the public interest because it will facilitate economic development at little cost to Great Falls and its residents. The application provides support for this public interest determination by analyzing the economics of the reservation in more detail. This public interest finding remains applicable today. As the 2008 report shows, Great Falls will need additional water to meet its reasonably foreseeable water needs. If the reservation is terminated or reduced, fulfilling this need will require either uncertain and costly new permit applications, together with resolution of anticipated objections, or purchasing other water rights at significant cost and seeking change authorizations, which also are costly and uncertain. The economics that support the public interest are likely more applicable today than they were at the time the reservation was granted.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The order approving the reservation does not contain specific requirements for the reservation. Plans and documents supporting the reservation include:

- Change authorization 41K-30006334 and all file materials;
- Change authorization 41K-30016816 and all file materials;
- Change application no. 41K-30047489 and all file materials;
- Water Rights Valuation, Reserved Water Right 41K-M-071890-00, Water Right Solutions, Inc., (Nov. 15, 2004);
- Report, "A Water Strategy for the Future," Water Right Solutions, Inc. (Jan. 4, 2008);
- Report, "Water Rights Review," Water Right Solutions, Inc. (Nov. 19, 2002);
- City of Great Falls 2006 Water Master Plan;
- Analysis of Claims for Objection Purposes, Water Rights Solutions, Inc. (Feb. 28, 2011);
- Growth Policy Update 2013;
- Population data maintained by Montana Department of Commerce;
- Water Court Order, Case 41QJ-30 (June 14, 2013);
- Annual reports maintained by the Great Falls Public Works Department.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: Although Great Falls has not achieved the full level of development anticipated in the application and order, it has been diligent about pursuing application of the water reservation to

beneficial use. These actions have included the arrangements with the malting plant and with the Highwood Generating Station, along with the corresponding change requests made to and approved by the DNRC. Although the Highwood facility ultimately was not completed as contemplated, the arrangements made to supply it with water for a recognized industrial use illustrate steps Great Falls has taken to perfect the reservation.

Due to factors beyond the City's control, population increases during the 1990s did not occur as rapidly as anticipated, but more recent studies cited in this response indicate that population growth has begun to increase again as contemplated by the reservation. As population increases the water available from the reservation will become more critical to meet future demands.

Finally, the water rights adjudication process conducted by the Montana Water Court remains an important factor. The adjudication is not complete and has resulted in certain adjustments to Great Falls' historic water rights. For example, the volume of the rights as filed has been adjusted somewhat to reflect historic use. Those adjustments cause the volume and flow provided by the reservation to be even more critical to anticipated future uses and demands.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, compliance, need, amount and perfection for the municipal/industrial portion of its reservation.

Information in the original application identifies a projected population of 78,723 persons by the year 2025 for the City of Great Falls. The 2013 census identifies a population of 59,152 for the City of Great Falls. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Great Falls was 16,565 acre-feet per year, $[(250 \text{ gallons per day})(59,152 \text{ persons})(365 \text{ days per year})] \div [325,851] = 16,565 \text{ acre-feet per year}$. Existing "municipal" water rights for the City of Great Falls total 20,365 acre-feet.

To date the City of Great Falls has submitted three change applications for its reservation. Two of these applications were issued by the DNRC and the third was withdrawn by the applicant. The combined volume of the two change applications that were issued totals 6,418 acre-feet of water per year. The flow/volume granted through the two changes are as follows:

- Change Application 41K 30006334 (Malting Plant)
 - Flow 3.34 cubic feet per second
 - Volume 2,419 acre-feet
- Change Application 41K 30016816 (Highwood Generating Station)
 - Flow 7.13 cubic feet per second
 - Volume 3,999 acre-feet

Change Application 41K 30016816, (Highwood Generating Station), was never perfected. The proposed coal fired electric generating plant was abandoned by the applicant. Because this change application is still active it represents the most current version for the water reservation for Great Falls. The flow and volume associated with this change currently remain available for appropriation as an unperfected change. As issued the project has a project completion date of December 31, 2025.

Information in the two approved change applications clarifies the intended points of diversion for irrigation of the City's parks, however, no information has been provided to determine the extent of development for irrigation.

City of Great Falls Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41QJ 123410 00	Statement of Claim	Active	8/30/1889	Municipal	Missouri River	74 CFS	20140*
41Q 105494 00	Statement of Claim	Active	1/1/1900	Municipal	Missouri River	900 GPM	225
41Q 124852 00	Statement of Claim	Active	6/11/1906	Irrigation	Missouri River	300.7 GPM	
41Q 124862 00	Statement of Claim	Active	6/11/1906	Fire Protection	Missouri River	300.7 GPM	
41Q 124863 00	Statement of Claim	Active	6/11/1906	Industrial	Missouri River	8.75 CFS	6,335
41Q 110040 00	Statement of Claim	Active	9/14/1908	Irrigation	Missouri River	2.23 CFS	
41Q 105493 00	Statement of Claim	Active	6/30/1960	Irrigation	Missouri River	150 GPM	124
41Q 123409 00	Statement of Claim	Active	9/30/1961	Irrigation	Missouri River	5.57 CFS	
41QJ 123411 00	Statement of Claim	Active	1/19/1966	Municipal	Missouri River	20 CFS	20140*
41QJ 123408 00	Statement of Claim	Active	6/23/1971	Municipal	Missouri River	60 CFS	20140*
41Q 39801 00	Provisional Permit	Active	11/3/1981	Irrigation	Missouri River	415 GPM	43.50
41K 71890 00	Water Reservation	Active	7/1/1985	Irrigation Municipal	Missouri River, Sun River, Giant Springs	9,155.52 GPM	6,489

*Combined shall not exceed 20,140

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7258100

City of Helena

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	7,071 acre-feet per year
Source:	Groundwater
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Helena on December 31, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: Helena was granted a water reservation of 7,071 acre-feet per year (AF) at a maximum flow rate of 7,361 gallons per minute (gpm). The source is groundwater for year- round municipal use. The final order sets a perfection date of December 31, 2025.

In 1998, Helena completed two deep exploration wells to evaluate the aquifer yield within the defined Water Reservation area. One test hole was drilled to 740 feet below ground surface (bgs). Based on the encouraging hydrogeology and pumping test yields, a second well was installed to a depth of 630 feet bgs, approximately 100 feet to the east of the first well. The pumping test yields for this second well were less than expected. Because of these results, Helena's Public Works Director decided to delay further drilling and development of the Water Reservation deep aquifer source until a later date.

In 2010, Helena submitted a request to DNRC to allocate 85 gpm and 19.73 acre-feet of this Water Reservation for use to irrigate 7.89 acres at Kindrick Legion Field and Memorial Park from a well at that location. A change application was completed and approved on September 9, 2010 to add a point of diversion.

The following information summarizes the current status of the Water Reservation allocation to date:

Volume (acre-feet per year)	
Granted	7,071
In Use	19.73
Remaining	7,051.27
Flow (cubic feet per second)	
Granted	16.4
In Use	0.19
Remaining	16.21

The water reservation will be used for municipal and industrial beneficial uses. Helena expects to fully use the water reservation by 2025. Current uncertainty exists regarding the outcome of legal challenges to Helena’s Tenmile Creek water rights. Retaining this water reservation is critical for the community. The entire amount of the water reservation is still anticipated to be needed to satisfy the projected water demand (flow rate and volume).

No change in the methodology originally used to determine the amount is necessary. The amount granted is based on population projections and development in the area, which have not changed. A Growth Policy was completed in 2011 (City of Helena 2011) and supports a projected population growth through 2035. If anything, the projected population from the application of 31,624 in 2035 is low compared to the projected population of 39,268 in 2030 based on data provided in Helena’s 2011 Growth Policy.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes. Helena requested a water reservation to meet future demands by municipal and industrial users. The purpose remains the same as identified in the application and order.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes the need still exists as identified in the application and order. Helena requested a water reservation to meet future demands by municipal and industrial users. The need remains the same. Based on population growth projections, Helena and the adjacent area are likely to expand. In addition, the uncertainty associated with the legal challenges to Helena’s Tenmile Creek water rights and the future expansion of Helena’s city limits will increase the demand on the municipal water supply. The population of Helena listed in the 2010 census was 28,212. The population in 2014 was 29,943. As projected in the 2011 Growth Policy, the population of Helena will increase to 39,268. This projection

does not account for the increase in legislators and associated legislative support that occurs every two years in Helena and increases the demand on water supplies. The increase in demand due to visitors during the summer tourist season is also not included in water use projections.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The water reservation amount is still appropriate, although more water than provided in the Water Reservation may be needed to accommodate revised population projections. More future growth is projected in the 2011 Growth Policy when compared with the projections used in the water reservation application submitted in 1989.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The water reservation continues to remain in Helena's public interest as identified in the application and order. Based on the growth and development both within Helena and the adjacent Helena Valley, and with the uncertainty described above, Helena Public Works is discussing how best to perfect the water reservation. Use of the reservation is in the public interest of Helena and adjacent Helena Valley residents. Helena needs the reservation to meet projected future demands identified in the 2011 Growth Policy and used to make this assessment.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: As explained above, the Helena has allocated a small volume and flow rate of the water reservation for use at Kindrick Legion Field and Memorial Park. The project completion notice for this portion of the Water Reservation was submitted on December 8, 2011. Helena is continuing to internally discuss and plan for additional development of the reservation. No general plans, detailed plans, annual or biennial reports have been prepared specific to the water reservation above the current use at Kindrick Legion Field and Memorial Park.

The applicable documents located in the DNRC data base referencing the allocated amount include the following:

- 1) File: Change Authorization 41I 30049152 a. Permit Authorization
- 2) Update to File: Change Authorization 41I 30049152 a. Verification and Certification

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: As described above, Helena Public Works is discussing continuing development of the water reservation to meet the objectives of the order. The uncertainty in regards to the ongoing legal action

brought against Helena's Tenmile Creek water rights, along with expansion of Helena city limits and growth in the Helena Valley, are requiring Helena to consider additional groundwater exploration and further development of the Water Reservation. Helena intends to develop the Water Reservation in the future to its full volume and flow rate.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population¹. However, uncertainty associated with the legal challenges to Helena's Tenmile Creek water rights and the future expansion of the Helena city limits are cited in the City's response. Finally, Helena is within the Upper Missouri River Basin Closure making it difficult for the City to obtain additional municipal water rights.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Application materials cite a 1987 population of 24,700 and a projected 2035 population of 31,624 for the City of Helena. In their response to the DNRC questionnaire the reservant claims a 2014 population of 29,943 and projects a population of 39,268 people sometime in the future. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2014 water use for the City of Helena was 8,385 acre-feet per year, $[(250 \text{ gallons per day})(29,943 \text{ persons})(365 \text{ days per year})] \div [325,851] = 8,385 \text{ acre-feet per year}$. Existing "municipal" water rights for the City of Helena total 17,392 acre-feet.

It appears that the City of Helena has sufficient water rights to serve the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Currently, the City of Helena's Tenmile Creek water rights are under legal challenge in district court. Based on these considerations, the City should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 24 years since the Final Order establishing the reservation was issued 19.73 acre feet of the reservation has been perfected.

¹City of Helena Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41I 89074 00	Statement of Claim	Active	11/5/1864	Municipal	Numerous Sources	5.62 CFS	4,061.57
41I 30052579	Statement of Claim	Active	12/31/1867	Stock	Spring, Crystal Springs		
41I 30052581	Statement of Claim	Active	12/31/1867	Irrigation	Spring, Crystal Springs	140.25 GPM	
41I 89075 00	Statement of Claim	Active	2/10/1865	Municipal	Numerous Sources	8.13 CFS	5,875.55
41I 89212 00	Statement of Claim	Active	4/1/1882	Irrigation	Tenmile Creek	2.5 CFS	
41I 89050 00	Statement of Claim	Active	4/25/1881	Municipal	Spring, UT Arrastra Gulch	13.46 GPM	18.25
41I 89213 00	Statement of Claim	Active	5/1/1866	Irrigation	Tenmile Creek	2 CFS	
41I 89077 00	Statement of Claim	Active	6/1/1867	Municipal	Spring, UT Orofino Gulch	2.5 CFS	1,825
41I 89078 00	Statement of Claim	Active	8/2/1866	Municipal	Spring, UT Orofino Gulch	1.2 CFS	876
41I 89056 00	Statement of Claim	Active	9/4/1885	Municipal	UT Beaver Creek	415 GPM	400.00
41I 89064 00	Statement of Claim	Active	9/4/1885	Municipal	UT Beaver Creek	2.42 CFS	440 AF
41I 89066 00	Statement of Claim	Active	9/4/1885	Municipal	UT Beaver Creek	2.3 CFS	419
41I 89048 00	Statement of Claim	Active	6/12/1912	Municipal	Spring, UT Orofino Gulch	1 CFS	730
41I 89059 00	Statement of Claim	Active	8/20/1919	Municipal	Ruby Creek		400
41I 89065 00	Statement of Claim	Active	11/1/1919	Municipal	Banner Creek		1,626.50
41I 89062 00	Statement of Claim	Active	12/31/1920	Municipal	UT Banner Creek		1,626.50
41I 127511 00	Statement of Claim	Active	4/15/1928	Irrigation	Groundwater	450 GPM	
41I 89076 00	Statement of Claim	Active	1/1/1933	Municipal	Groundwater	500 GPM	811.1
41I 89054 00	Statement of Claim	Active	7/9/1946	Municipal	Groundwater	250 GPM	116.8
41I 89052 00	Statement of Claim	Active	1/1/1952	Irrigation	Groundwater	500 GPM	
41I 214622 00	Statement of Claim	Active	12/31/1952	Municipal	Ruby Creek		195.27
41I 89047 00	Statement of Claim	Active	6/1/1954	Municipal	Groundwater	300 GPM	486.7
41I 127512 00	Statement of Claim	Active	4/15/1955	Irrigation	Groundwater	450 GPM	
41I 30052580	Statement of Claim	Active	9/15/1966	Stock	Crystal Spring Creek		
41I 30052582	Statement of Claim	Active	9/15/1966	Irrigation	Crystal Spring Creek	210.94 GPM	
41I 19333 00	Provisional Permit	Active	6/30/1978	Irrigation	Groundwater	400 GPM	295
41I 42364 00	Provisional Permit	Active	3/9/1982	Irrigation Recreation	Groundwater	500 GPM	270
41I 50180 00	Provisional Permit	Active	1/25/1983	Municipal	Groundwater	600 GPM	967.65
41I 72581 00	Water Reservation	Active	7/1/1985	Municipal Irrigation	Groundwater	7,361 GPM	7,071
41I 67463 00	Ground Water Certificate	Active	11/20/1987	Irrigation	Groundwater	95 GPM	23.09
41I 105648 00	Ground Water Certificate	Active	10/23/1998	Lawn & Garden	Groundwater	10 GPM	2.5
41I 30004542	Provisional Permit	Active	11/25/2002	Municipal	Groundwater	350 GPM	278.41

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7258400

City of Lewistown

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	1,247 acre-feet per year
Source:	Groundwater
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Lewistown on December 31st, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The City of Lewistown currently has water rights totaling 14 CFS and a water reservation of 1.1 CFS. This reservation was granted on June 29, 1992.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose was to allow for growth of the community by provided adequate water in a cost effective manner. Beneficial use by municipal and industrial user continues to be the purpose of this reservation.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: The need for a reliable and high quality source of water that allows for the growth of our community continues. This reservation allows the community to focus on improving the existing system and preserving the source rather than spending time and money on obtaining water rights. The City of Lewistown spent over 10 years working to accurately measure to production of Big Springs and has also done testing to analyze the composition of the water. This information may be used in the future as a baseline for the quality of the water in the aquifer.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The original application went into great depths to project the population, and the board decreased the projection to more accurately reflect the population trends statewide. The 2010 showed the population of Lewistown 5901, which is a decrease from 6051 in 1990. While the population has not increased, the community changes and grows. Lewistown is a hub for several smaller communities and many people commute to Lewistown for work, shopping and doctoring. There is also several thousand additional people living within 5 miles of Lewistown that utilize City services.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: This reservation allows the community to focus on improving the existing system and preserving the source rather than exploring other sources of clean and reliable water or obtaining more costly water rights. The City of Lewistown had explored two alternative sources of water for future development and neither of these alternative would provide a greater benefit than the water reservation. Not having this reservation would prevent future municipal and industrial growth and would result lost economic development opportunities. The City's water reservation had no significant adverse impact to public health, welfare or safety.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: At the time the board granted this reservation there was no additional plans or reporting required. As part of the management plan the City of Lewistown did identify several items that needed addressed. First, a leaking transmission line. This line was replaced in 1996 and a 1.5 million gallon water tank was installed. This project install a 24 inch transmission line from the spring to Lewistown and also upsized the replaced or upgraded the booster pumps and several distribution lines. Also by 2002 The City had completed its metering project and now the entire system is metered.

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The population of Lewistown does not accurately reflect growth of the community. Lewistown is a hub for smaller Central Montana communities. It offers people from all over the area a place to work, shop and receive medical care. The hospital continues to grow and add additional services, Lewistown is now home to a MSU northern campus. The 1996 improvements to our system allowed the City to service approximately 60 additional properties to the south of town. The City is now

in the process of annexing many of these properties. Also in the late 1990's another 20 lot subdivision was developed and continues to fill in. In the last 10 years 2 correctional facilities have opened and provide good jobs for local people. Our town continues to change, while businesses close on Main Street new one build on the outskirts. In fact, in 2014 construction inside the City Limits, were the highest on record. In the original application there were five areas that were identified as areas for potential growth. These are the areas that have grown and where additional projects are planned. These areas are also where the City has extended services too. Over the last 20 years the City of Lewistown has improved or extended service to the Airport. There is also a group that hopes to develop an industrial park in this area. The City has also extended water and sewer east and west of town. These services allow the continued use of the area for numerous community events and improved public health and safety to the area. The City of Lewistown realizes what a valuable resource our water is and we are committed to protecting it and preserving it for the generations to come.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Currently the need for the reservation has not materialized. Water available through existing water rights appears to be more than adequate to serve the existing population¹. Since the reservation was issued the population of Lewistown has seen a decline. Information provided through the City of Lewistown response identifies several factors that may contribute to an increase in municipal water use. In the event that this projected increase materializes reserved water would be needed.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information in the original application identifies a projected population of 9,618 persons by the year 2025 for the City of Lewistown. The 2013 census identifies a population of 5,867 for the City of Lewistown. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Lewistown was 1,643 acre-feet per year, $[(250 \text{ gallons per day})(5,867 \text{ persons})(365 \text{ days per year})] \div [325,851 \text{ gallons}] = 1,643 \text{ acre-feet}$. Existing "municipal" water rights for the City of Lewistown total 2,221 acre-feet.
It appears that the City of Lewistown has sufficient water rights for a population much greater than the current population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Based on this consideration, the city should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.
4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

¹ Lewistown Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41S 2440 00	Statement of Claim	Active	2/29/1912	Municipal	Spring, Big Springs	2.5 CFS	402
41S 2441 00	Statement of Claim	Active	2/29/1912	Municipal	Spring, Big Springs	7.5 CFS	1,000
41S 128265 00	Statement of Claim	Active	10/1/1955	Stock	UT Little Casino Creek		
41S 128266 00	Statement of Claim	Active	10/1/1955	Stock	Little Casino Creek		
41S 2439 00	Statement of Claim	Active	12/31/1962	Municipal	Spring, Big Springs	0.4 CFS	249
41S 2438 00	Statement of Claim	Active	6/30/1973	Municipal	Spring, Big Springs	2 CFS	320
41S 27013 00	Provisional Permit	Active	3/27/1980	Municipal	Spring, Big Springs	1.6 CFS	250
41S 55893 00	Ground Water Certificate	Active	5/23/1984	Commercial	Groundwater	30 GPM	1
41S 72584 00	Water Reservation	Active	7/1/1985	Municipal	Big Spring Creek	449.4 GPM	1,247
41S 68100 00	Provisional Permit	Active	2/26/1988	Recreation	Big Spring Creek, East Fork	13.8 CFS	1,700
41S 68102 00	Provisional Permit	Active	2/26/1988	Recreation	Hanson Creek	5.6 CFS	180

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7189100 Town of Shelby Montana

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	161 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the town of Shelby on December 7th, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The City of Shelby was granted a water reservation of 161 acre-feet per year (AF) at a flow rate of 0.23 cubic feet per second (CFS). The source is groundwater for year- round municipal use. The final order sets a perfection date of December 31, 2025. Shelby has taken action to put their full water reservation (flow rate and volume) to beneficial use in the near-future through the City's existing public water supply well field. The City submitted two water right change applications (application numbers 41P 30072725 and 41P 30072726) to change each of the City's municipal water rights. The City is requesting to change the place of use and point of diversion for each of the water rights. The applications are currently being reviewed by DNRC-Havre Regional Office. Change application 41P 30072725 includes the change of Shelby's water reservation. The change application proposes to change the City's water reservation's (and all other municipal water rights) place of use from the pre-1973 City boundaries to current City limits and to also include outlying communities. The change would be completed without increasing the overall historic water use plus the entire water reservation volume. The point of diversion on each water right is being changed so that all wells are identified as multiple points of diversion on each water right. The water reservation would draw from excess capacity from existing wells within the well field.

The City requested the water right changes in order to meet current municipal demands from portions of the City that have grown outside of its historic boundaries. Additionally the City has obtained multiple water use agreements to distribute water to outlying communities including Cut Bank, Ethridge, Big Rose Colony, and Devon and Dunkirk. The water right and water reservation changes are part of an

interim solution to provide reliable potable water to local communities prior to completion of the North Central Montana Regional Water Authority pipeline project. The entire amount of the water reservation is needed to satisfy the projected water demand (flow rate and volume) proposed in the change applications. Based on beneficial water use proposed in the applications, the entire water reservation would be allocated over about the next 5 to 13 years. Water use to all locations within Shelby's water service area would be metered so that use of the water reservation could be verified. No change in the methodology originally used to determine the amount is required. The amount granted is based on population projections and development in the area, which have not changed.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes. Shelby requested a water reservation to meet future demands by municipal and industrial users. The purpose remains the same as identified in the application and order.

- 3. Need:** Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes. Shelby requested a water reservation to meet future demands by municipal and industrial users. The need remains the same as identified in the application and order. Shelby will perfect the reservation by putting the full water reservation of 161 (AF) at a flow rate of 0.23 cubic feet per second (CFS) to use through the existing public water supply well field. A change application is currently under review by DNRC-Havre Regional Office to change the place of use for all Shelby's municipal water rights and the water reservation.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Response: Yes. The water reservation amount is still appropriate. A change application was submitted by Shelby to initiate use of its water reservation as part of its current water needs and near-future plans. Because of the planned expansion of Shelby's water service area since granting of this water reservation, the change application addressed the change in place of use from the place of use identified in original water reservation. In addition, Shelby does not plan to drill new wells to perfect this reservation. The wells within Shelby's existing well field have sufficient capacity to meet existing demands and the reservation's full flow rate and volume. The change application was submitted to request this change.

The total amount of water needed for the requested change would come from both the historic use of existing water rights plus the water reservation. The beneficial use estimated with approval of the change application would require all the historic water use from existing water rights and all but about 57 acre feet of the water reservation. The entire water reservation is expected to be needed within the next five to thirteen years based on expected growth. Actual water use varies with economic and climatic factors and will be metered to verify use. Historic and expected water use is provided in the change application documents.

The amount needed was determined as part of the submitted change applications. The following table, which was provided in the change application currently under DNRC review, identifies the total estimated water use by service area for all historic water rights plus the additional use needed from the water reservation contribution.

Total Estimated Water Use Summary

	City of Shelby	Prison	Ethridge	Big Rose	Devon/Dunkirk	Cut Bank (supplemental Use)	Total
Current Population	3,304	783	70	60	75	3,105	7,397
Average Day Demand (gpd)	631,064	65,682	13,345	3,874	33,225	349,650	1,096,840
Average Day Demand (gpm)	438	46	9	3	58	243	796
Annual Demand (ac-ft)	706.88	73.57	14.95	4.34	37.22	391.66	1,228.62
Peak Day Demand (gpd)	1,672,320	173,755	35,304	11,235	96,353	1,000,000	2,988,966
Peak Day Demand (gpm)	1,161	121	25	8	58	694	2,066

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The water reservation remains in Shelby's public interest as identified in the application and order. Shelby is currently perfecting this reservation as a result of proposed water right changes in place of use due to growth and development both within the City, its expanded boundaries, and outlying communities. The water right changes and use of the water reservation are part of an interim solution to provide reliable potable water to local communities prior to completion of the North Central Montana Regional Water Authority pipeline project. Use of the reservation is in the public interest of both Shelby and outlying communities within its water service area. The City of Shelby needs the reservation to meet current and near-future demands. In the best interest of Shelby residents, actual water use will continue to be metered to ensure the historic volume plus the water reservation is not exceeded.

Apart from the requested change application, the water reservation has not yet been put to use, so the historic diverted flow rate or volume of the reservation will not be exceeded. No changes to the operational function of the existing points of diversion will be made. The water reservation volume will

be distributed among the 13 wells and will increase the amount of water pumped from each well by approximately 8 gallons per minute.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: Response: Apart from the requested change application, the water reservation has not yet been put to use, as explained in the change application submitted to DNRC in March 2015. DNRC found no deficiencies with the change application. The change application has been determined correct and complete, and is currently under consideration for preliminary determination to grant or deny. No general plans, detailed plans, annual and biennial reports have been prepared specific to the water reservation. The change application can be found on file with DNRC-Havre Regional office. Supporting water use, current and proposed needs, well field and water treatment system summaries, and other engineering reports associated with Shelby's water system are included in the change application package.

The reference for the change application is as follows:

City of Shelby, Change Application Number 1. Application to Change Seven Existing Non-Irrigation Water Rights and One Water Reservation. Change in Place of Use and Change in Point of Diversion for Municipal Water Rights 41P 192878 00, 41P 192880 00, 41P 192881 00, 41P 192882 00, 41P 4489 00, 41P 4490 00, and 41P 58129 00; and Water Reservation 41P 71891 00; Marias River- Basin 41P Submitted March 20, 2015

- 7. Perfection:** If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: As described above, Shelby has a change application under review with the DNRC to allow a change in place of use in order to put the water reservation into the existing public water supply system. The water reservation is expected to be perfected within five to thirteen years after the change is granted and required infrastructure is in place. Shelby anticipates that the change application to be granted within the year. Much of the required infrastructure is already in place or is under construction.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water available through existing water rights appears to be more than adequate to serve the existing and projected population within the proposed service area.¹ Water rights associated with the current City wells supply ample water for the current population and should these wells fail the underlying right can be applied to a replacement well. Additionally, water remains available for future appropriation through the provisional permit process. Finally, Shelby is within the service area of the Rocky Boy North Central

Montana Regional Water Project and will rely on the project for future appropriations when the project becomes operational.

3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information in the original application identifies a projected population of 4,387 persons by the year 2025 for the City of Shelby. The 2013 census identifies a population of 3,301 for the City of Shelby. Information received from the City of Shelby indicates an expanded service area that includes a current population of 7,397 people. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the City of Shelby was $[(250 \text{ gallons per day})(3,301 \text{ persons})(365 \text{ days per year})] \div [325,851] = 924 \text{ acre-feet per year}$. Existing “municipal” water rights for the City of Shelby total 3,292 acre-feet.

The city of Shelby has applied for a change authorization that would substantially increase the service area for municipal water. Under this change, the service area would be expanded to serve 7,397 people. Again using an average daily use of 250 gallons per person per day, the total volume through the proposed change would be 2,071 acre-feet per year.

It appears that the City of Shelby has sufficient water rights to serve the current and projected population including the population within the service area proposed through the pending change application. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the City should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. However, through a pending change the City intends to utilize a portion of the reservation and anticipates full use by the mandated perfection date of 2025. During the 25 years since the Final Order granted the reservation the City has applied for and received a total of 1,466 acre-feet of water through Provisional Permits.

¹*City of Shelby Water Rights:*

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41P 187143 00	Statement of Claim	Active	12/31/1891	Stock	Marias River		
41P 192879 00	Statement of Claim	Active	7/7/1939	Municipal	Groundwater	300 GPM	250
41P 192877 00	Statement of Claim	Active	6/6/1940	Municipal	Groundwater	300 GPM	250
41P 192878 00	Statement of Claim	Active	10/1/1946	Municipal	Groundwater	300 GPM	450
41P 192880 00	Statement of Claim	Active	10/12/1946	Municipal	Groundwater	300 GPM	450
41P 192876 00	Statement of Claim	Active	8/11/1958	Stock	Manmade Pit, Reservoir Coulee		
41P 192881 00	Statement of Claim	Active	12/26/1963	Municipal	Groundwater	350 GPM	550
41P 192882 00	Statement of Claim	Active	4/6/1992	Irrigation	Groundwater	250 GPM	400
41P 192874 00	Statement of Claim	Active	6/23/1966	Flood Control	UT Sullivan Coulee		550
41P 192875 00	Statement of Claim	Active	6/23/1966	Recreation	Sullivan Coulee		550
41P 4489 00	Provisional Permit	Active	12/26/1974	Municipal	Groundwater	250 GPM	397.8
41P 4490 00	Provisional Permit	Active	12/26/1974	Municipal	Groundwater	250 GPM	399
41P 58129 00	Provisional Permit	Active	6/10/1985	Municipal	Groundwater	1,850 GPM	545
41P 71891 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	103.23 GPM	161.00
41P 78853 00	Provisional Permit	Active	4/6/1992	Irrigation	Groundwater	132 GPM	124

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7011700

City of Three Forks

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	81 acre-feet per year
Source:	Groundwater
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the City of Three Forks on December 31st, 2015.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: AMOUNTS GRANTED: The reservation allows the City of Three Forks, Montana a water reservation of 81 acre-feet per year at a flow rate of 0.25 cubic feet per second (CFS). The source is groundwater.

Three Forks is currently running on 5 wells with a capacity of 464 gallons per minute (gpm). Prior estimates of future water needs reported that 670 gpm would be required by year 2025 based upon predicted growth. Although times have changed since the water rights reservation was granted, the fact is Three Forks' water system is still in need of an additional water source. The Department of Environmental Quality (DEQ) requires that public water systems have enough flow rates in water sources to meet max day demand with the largest well out of service. Even without the estimated growth, the City of Three Forks needs additional water source to supply water if the one well goes out. The highest demand is during the irrigation season of June, July, and August. If a well goes out in these months, the water system may not be able to supply peak demand.

Previously projected estimates of growth have already been exceeded. In the year 2010, the Census Bureau reported Three Forks, Montana population as 1,869. In the application for reservation of water submitted in 1988 the estimated population of Three Forks for year 2025 was 1,860. Therefore, the total quantity of additional water granted in reservation is still needed for growth. A new estimate for growth in Three Forks as reported in the 2013 Preliminary Engineers Report (PER) prepared by Great

West Engineering, is 3,218 for year 2032. This increase is equivalent to approximately 1,350 people, which at an average day demand per capita of 84 gallons per capita per day (gpcd) is greater than 81 acre feet i.e.; $(1,350 \times 84 \text{ gpd} = 127 \text{ AF per year})$.

Although Three Forks water system has changed, the amount of water consumed by people has also changed. Based upon flow measurements recorded by meter reading from year 2009 – 2011 average day consumption per capita is estimated at 84 gpcd (less than the amount reported in 1988). Between the addition of another well in 1986 (WR# 41G 60815 00), reduced water demand by consumers, and greater growth than originally predicted, the overall affect is that Three Forks has the need more than ever for water right reservation.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose essentially remains the same as the order, which is to reserve water for municipal uses. Municipal purposes are defined as a beneficial use. The beneficiaries of such use shall be all residents and enterprises of the community that are served by the municipal water supply system. This purpose has not changed from the original application.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: There was and still is a definite and urgent need for the City to reserve water based on (1) the threat to future water availability from potential competing users, (2) a desire to improve long-range planning efforts, and (3) present economic and demand constraints to near-term development.

Additionally, groundwater from wells in the Three Forks area have problems with water quality such as arsenic, TDS, sulfates, sodium and now alpha radiation, depending on the drainage that the wells draw from. The City's system has been blending water to keep the levels within DEQ minimum requirements. As these requirements change, it's becoming apparent that water treatment will be necessary to increase the capacity of the system and keep under the minimum contaminate levels. Additional parameters that are not typically analyzed in other public water systems such as alpha radiation have recently been found in deeper water.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount of water requested was and is still based upon a forecast of its future population, along with the estimated amount of water used per person. Previous forecasts utilized trends of existing growth rates and projections into the future. Census data from year 2010 reported a population of 1,869 in the City of Three Forks. New estimates project future growth to Three Forks in year 2032 to be 3,218 (PER, Great West Engineering, 2013).

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: It is important that the City of Three Forks has a water reservation to meet future municipal water demands in order for the community to grow and develop. Infrastructure improvements are based upon growth including payback of the improvement costs. It is in the public's interest to maintain these water right reservations.

Additionally, the City has now identified that water treatment is necessary to increase capacity. The need for water treatment means a municipality is the most likely source of water for new development. With the added burden of water treatment, the cost of water supply has increased; grants from State and Federal funding require that the cost of water to users be reconciled to pay back loans. The fees for water use have risen accordingly.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: Unfortunately, the City of Three Forks does not have record of reports submitted to the DNRC. The City does have the ability to produce these reports and will do so as ordered or at the request of DNRC. Additionally, the City has had extensive engineering analysis prepared in order to obtain funding from DEQ, Montana State Revolving Fund (SRF), DNRC and others in order to maintain and continually provide clean water to its customers.

Water

The PER for the water project was completed in February 2013. This project consisted of two phases. Phase 1: replacing approximately 2500 linear feet of 8-inch PVC water main, 2980 linear feet of 6-inch PVC water and 1 cased jack and bore railroad crossing (and all associated valves, fittings, connections, etc.); drilling a new water supply well, including installing 10-inch casing and screening, pump testing and associated valves, fittings, etc. The City elected not to complete the 8-inch water main installation and railroad crossing as part of Phase 1 and will look to complete this work in the future. Phase 1 also included upgrades to the telemetry system. Phase 2: Repaint the 1 million gallon steel water tank; repairs to the old underground concrete water tank in order to hold the water during the repainting of the current tank. Everything but phase 2 is complete on this project.

Funding for this project is secured with a SRF loan in the amount of \$1,281,000. \$500,000 of that was forgiven through various refinancing/funding sources. The City was also awarded \$250,000 in WRDA funds from the Army Corps of Engineers, and \$40,000 of City reserves were utilized.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: As discussed above, the City of Three Forks is in progress of improvements to the water and sewer systems which will add to system capacity and bring the system into compliance with DEQ standards. Water supply continues to be problematic in that the new well produces 200 gpm, but is high in gross alpha. To meet minimum contaminate levels (MCL), the City has to blend it with other wells. The blending rate is limited to 54 gpm. The total capacity of Three Forks wells including the new well at 54 gpm is 464 gpm. In the 1988 water reservation application, the system reported delivery of 470 gpm with a future growth demand of 670 gpm. Therefore the reserve water right request of 200 gpm has not changed. Flow rates of existing wells and new wells have changed due to replacements of pumps, decreased capacity of wells and requirements of blending. The point is that Three Forks is at the same state of need for reservation as was presented in the 1988 application.

Future plans for Three Forks Water system will likely include water treatment so that water sources don't have to be blended. Three Forks water system sources exceed MCL's of arsenic in the Madison drainage, TDS, sulfates and sodium in the Jefferson drainage, and now Gross alpha in deep formations. Again, the need for water reservation has not changed. The circumstances for perfection have changed. Three Forks wants to continue pursuing these reservations as improvements to the system continue and the town plans on future growth.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Currently the need for the reservation has not materialized. Although previous population estimates have been exceeded, water available through existing water rights appears to be more than adequate to serve the existing and projected population¹.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. Information provided in the City's response to the DNRC request for information identifies an estimated population of 3,218 people for the year 2032. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2032 water use for the City of Three Forks would be 901 acre-feet per year, $[(250 \text{ gallons per day})(3,218 \text{ persons})(365 \text{ days per year})] \div [325,851 \text{ gallons}] = 901 \text{ acre-feet}$. Existing "municipal" water rights for the City of Three Forks total 1,090 acre-feet. It appears that the City of Three Forks has sufficient water rights for the current and projected population. However, this margin may not be deemed a valid water right unless used. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases." Based on this consideration, the city should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.
4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

¹ City of Three Forks Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41G 195425 00	Statement of Claim	Active	6/6/1911	Municipal	Groundwater	50 GPM	40.44
41F 9025 00	Statement of Claim	Active	6/20/1933	Municipal	Groundwater	300 GPM	196
41F 9024 00	Statement of Claim	Active	6/5/1935	Municipal	Groundwater	250 GPM	122
41F 9023 00	Statement of Claim	Active	6/10/1945	Municipal	Groundwater	450 GPM	220
41F 9020 00	Statement of Claim	Active	2/2/1955	Municipal	Groundwater	260 GPM	106
41F 9021 00	Statement of Claim	Active	12/31/1963	Municipal	Groundwater	340 GPM	166
41H 70117 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	112.2 GPM	81
41G 60815 00	Provisional Permit	Active	2/21/1986	Municipal	Groundwater	300 GPM	240
41G 70878 00	Ground Water Certificate	Active	2/22/1989	Irrigation	Groundwater	15 GPM	0.29
41G 70879 00	Ground Water Certificate	Active	2/22/1989	Irrigation	Groundwater	50 GPM	1
41G 70880 00	Ground Water Certificate	Active	2/22/1989	Irrigation	Groundwater	85 GPM	2.5
41F 30002240	Ground Water Certificate	Active	5/23/2002	Lawn & Garden	Groundwater	34 GPM	

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7011500

Town of West Yellowstone

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	1,922 acre-feet per year
Source:	Whiskey Springs
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. Due to an out dated address the Town did not respond to the initial request for information. The following response was received from the Town of West Yellowstone on March 15th, 2016.

Reservant Response:

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The Town was granted a water reservation of 1,922 acre-feet per year (AF) at a flow rate of 2.65 cubic feet per second (CFS) for use January 1 to December 31 annually. The source is groundwater from Whiskey Springs, which is located in the NE¼ SE¼ of Section 17, Township 14 South, Range 5 East. The perfection date for the reservation is December 31, 2025. Long term average flows from Whiskey Springs are reported to be about 6 cubic feet per second (DFS), although flows as low as 1.5 CFS were reported during the dry year of 1988 in a study by Braun Intertec conducted for the Town.

From the time the reservation was granted, Whiskey Springs and the water reservation has provided the Town with its primary source of municipal water. The total amount of metered water delivered to Town customers in 2015 was 202,114,807 million gallons (MG; Table 1). During peak tourist season in the summer months, water from Whiskey Springs is supplemented by one of the Town's wells (referred to as the Railroad Well), because over the last approximately 10 years the spring alone has not met peak summer demands. In recent years, the Town Engineer estimates that the Railroad Well provided approximately 11 MG (33.8 AF) per year of water, with the rest sourced from Whiskey Springs. Based on this approximation, the Town depends on the Whiskey Springs water reservation for about 95 percent of its municipal water supply.

The amount of water requested for the reservation was based on peak daily water use at that time of the application, projected to the year 2025 based on forecasts of population and visitation. This methodology was deemed appropriate in the DNRC Final Order, but population predictions and the reservation rate and volume were modified by DNRC at the time. This methodology is still applicable for forecasting future water needs. A discussion of these trends based on more recent data is presented in the response to Question 3.

Based on recent records, a summary of municipal water use in the Town during 2014 and 2015 is presented on Table 1. The yearly totals reflect water used from Whiskey Springs plus approximately 33.8 AF from the Railroad Well, provided during peak summer months. In 2015, these records show that 620.3 AF of water was used by meter connections in the Town. The Town Engineer estimates system losses to be approximately 10 percent of the delivered volume, thus the actual volume diverted for 2015 is estimated at 682 AF, with an estimated 649 AF sourced from Whiskey Springs and the remainder from the Railroad Well.

Furthermore, in accordance with an access agreement to the spring site between the Town and the U.S. Forest Service, the Town is required to allow a continuous 0.5 CFS of Whiskey Springs flow to discharge into Whiskey Creek. This requirement is in place except during emergencies or short-term demand spikes. This 0.5 CFS flow amounts to approximately 362 AF per year in addition to the volume used for municipal uses.

Table 1. Summary of recent West Yellowstone water usage in gallons. Includes diversions from Whiskey Springs and Railroad Well. See text for details

West Yellowstone Water Use		
29 Feb 2016	Based on Billed Town Meter Readings	
Month	2014	2015
January	10,141,470	7,855,025
February	7,074,752	7,177,931
March	6,586,534	19,425,015
April	7,239,197	8,795,067
May	13,033,161	14,156,937
June	23,417,813	21,303,120
July	33,403,087	33,959,882
August	23,641,104	36,728,983
September	21,307,101	25,347,687
October	11,259,215	12,508,219
November	5,605,052	6,471,529
December	16,961,688	8,385,412
Total	179,670,174	202,114,807
Average Daily	492,247	553,739
Peak Day (calc)	886,045	996,731

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: Yes. West Yellowstone requested a water reservation to meet ongoing and future demands by municipal users. The purpose remains the same as identified in the application and order.

However, it should be noted that under the Town's agreement with the U.S. Forest Service for access to the Whiskey Springs site, the Town is required to allow a continuous 0.5 CFS of flow to discharge into Whiskey Creek. This requirement is in place except during emergencies or short-term demand spikes. This 0.5 CFS flow amounts to approximately 362 AF per year.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes, This continuing need is supported by continued population growth, plans to expand the area served by the West Yellowstone municipal water system, and the fact that Whiskey Springs remains the highest quality water source available to the Town. Specifically:

- Based on estimates from the Town Engineer, the 2015 peak equivalent population (permanent residents plus occupied hotels and motels) is estimated to be 9,270 persons, with an annual growth rate between 1 and 1.5 percent. Assuming the 1.5 percent growth rate, the 2015 equivalent population of 9,270 is projected to grow to about 10,800 by 2025, which is near but slightly below the 11,972 person peak equivalent population predicted in the Town's application for the water reservation.
- The Town has recently purchased 80 acres to the west of the Town from the U.S. Forest Service. It is anticipated that this new addition to the Town will be slated for commercial and residential development, which will increase the Town's demand for municipal water. Importantly, this expansion could lead to an increased growth rate that is not reflected in past trends, leading to higher than predicted populations in the future.
- The utility of other local groundwater sources, including the Railroad Well, is marginal due to fluoride concentrations that exceed Montana drinking water standards. Well water requires mixing with Whiskey Springs water (or construction and operation of a treatment plant) to meet drinking water standards. In fact, the Town shifted to reliance of Whiskey Springs due to the elevated fluoride naturally occurring in the groundwater beneath the Town.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: Yes, The water reservation amount is still appropriate. The amount needed is substantiated by records that demonstrate ongoing utilization of the reservation (Table 1), updated projections of growth in equivalent population, and previously unanticipated growth on 80 acres that the Town has recently purchased.

Based on a projected peak 2025 equivalent population of 10,800 persons using 120 gallons per capita per day (gpcd)¹ over 365 days, 2025 maximum annual volume is estimated at 1,453 AF. This is similar to the quantification approach used in the Town's original application and validated by DNRC in the Final

Order. Alternatively, Mr. Winston R. Dyer P.E., Town Engineer, completed a utility study for the Town in 2007. This study predicted an annual average daily flow of 0.7 million gallons per day (MGD; 2.25 AF) and a maximum peak daily flow of 1.6 MGD (4.91 AF) for the year 2027. Annual municipal water use in 2027 (two years after perfection) using each of these daily rates is thus projected at 784 AF or 1,792 AF, respectively.

However, two additional demands on the Town's water reservation exist that are not incorporated into the above projections. First, the Town's agreement for 0.5 CFS of flow to Whiskey Creek will remain in effect, resulting in the use of up to approximately 362 additional AF annually. Second, the addition of 80 acres of land to the Town has recently been finalized. A preliminary estimate prepared by the Town Engineer suggests an additional municipal demand of 297 AF per year could be required to supply water to new commercial and residential development in this area. Thus, up to 659 AF per year of water may be needed in addition to the demands outlined above.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The water reservation remains in the Town's public interest as identified in the application and Final Order. Based on the growth and development both within the current Town limits and its soon to be expanded boundaries, and the unequaled quality of the Whiskey Springs source water, the reservation has been and will continue to be critical to the Town's residents, businesses, and guests. As one of the principal gateway communities to Yellowstone National Park, the reservation supplies water relied upon by millions of visitors to the Park from around the world. Therefore, use of the reservation continues to be in the public interest.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: The Town has answered previous DNRC questionnaires about the reservation and as a matter of standard practice would have responded to any other inquiries from DNRC. No other specific reporting requirements are known to exist. If requested, the Town can provide engineering plans and drawings documenting the diversion and delivery works from Whiskey Springs.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The reservation was quantified based on population estimates and peak water use in 2025. The higher of the revised estimates for maximum annual municipal usage (Question 4) are 7 to 25 percent below the reservation volume of 1,922 AF.

However, as outlined in Question 4, there are two additional water demands that increase the projected utilization of the reservation. Specifically, the Town has an obligation to the U.S. Forest Service to

provide up to 362 AF per year to maintain flow in Whiskey Creek, and an estimated 297 AF per year of additional water may be needed to supply development of the Town's 80 acre expansion. Therefore, it is conceivable that the full reservation volume could be utilized in 2025, and it is likely that the Town will utilize its reservation to the extent that the water for this growth is reliably available from Whiskey Springs. If demand were to exceed the reservation volume or the capacity of Whiskey Springs, the Town would rely on other permitted water sources or seek new supplemental sources.

A hydrogeological study of Whiskey Springs, conducted for the Town in 1990 (Braun Intertec), found that Whiskey Springs does not always maintain a flow of 2.65 CFS or more. In dry periods, such as the fall of 1988, the total flow of the spring was 1.5 CFS. Since 0.5 CFS of the total flow must be returned to the Whiskey Springs stream channel in accordance with the Town's agreement with the U.S. Forest Service, only 1.0 CFS would be available to the Town. This amount, equivalent to 1.98 AF per day, would actually fall slightly short of current peak demand. Thus, while the Town plans to utilize its full right under the reservation, it must do so knowing that all available water is already appropriated in critical low flow periods.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. The need for the reservation has not materialized. The City has been successful in obtaining water use permits through conventional methods¹. On November 14th, 1986 the Town submitted an application for a flow of 2.67 CFS up to 1,935 acre-feet per year of the waters of Whiskey Spring, (provisional permit 41F 63730-00). In the submitted response to the DNRC request for information the Town reported a 2015 total use of 649 acre-feet per year from Whiskey Springs. It does not appear that the City will utilize any portion of their reservation by the mandated perfection date of December 31, 2025.
In the Final Order, (issued July 1, 1992), the Town of West Yellowstone was granted a reservation of 2.65 CFS up to 1,922 acre-feet per year from Whiskey Springs. Long term average flows from Whiskey Springs are reported to be about 6 CFS, (applicant response). Through an access agreement with the Forest Service the Town is required to allow a continuous flow of 0.5 CFS to Whiskey Spring Creek, leaving a flow of 5.5 CFS available for appropriation. 2.67 CFS has been appropriated through provisional permit 41F 63730-00. Sufficient flow to satisfy the reserved claim for 2.65 CFS appears to remain available.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. In the submitted response to the DNRC request for information the Town reported a 2015 total use of 649 acre-feet per year from Whiskey Springs and a combined total volume of 682 acre-feet from all water rights that serve the Town.
It appears that the Town of West Yellowstone has sufficient water rights to serve the current population¹. However, these rights cannot be relied upon until a final decree is issued. The Montana Water Use Act (1973) initiated a statewide adjudication of all water rights that existed in the state prior to July 1, 1973. The act identifies historic beneficial use as the measure of a water right. The excess volume may not be deemed as valid as it was never put to use. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy's water rights were significantly reduced based on historic use. As stated in the ruling, "Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and

when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the Town should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.

4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

Town of West Yellowstone Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41F 100927 00	Statement of Claim	Active	7/15/1930	Municipal	Groundwater	15 GPM	24.26
41F 100928 00	Statement of Claim	Active	12/4/1942	Municipal	Groundwater	300 GPM	485.15
41F 100929 00	Statement of Claim	Active	12/10/1981	Municipal	Groundwater	165 GPM	266.83
41F 57233 00	Ground Water Certificate	Active	10/29/1984	Domestic	Groundwater	30 GPM	10.5
41F 58320 00	Provisional Permit	Active	1/9/1985	Municipal	Groundwater	760 GPM	300
41F 70115 00	Water Reservation	Active	7/1/1985	Municipal	Spring, Whiskey Springs	1,189.31 GPM	1,922
41F 63730 00	Provisional Permit	Active	11/14/1986	Municipal	Spring, Whiskey Springs	1,200 GPM	1,935.60
41F 68214 00	Provisional Permit	Active	5/5/1988	Municipal	Groundwater	425 GPM	483.9

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7199800

Town of Winifred

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	161 acre-feet per year
Source:	Groundwater
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address. A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the ARM criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The following response was received from the Town of Winifred on December 29th, 2015.

Reservant Response:

Required Reporting [36.16.120]

1. Summary: Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

Response: The amount granted in the application is 100 gal per minute, and a volume of 161 (cf). The amount allocated to date is 0 gallons. There is no change in the methodology originally used to determine the amount.

2. Purpose: Does the purpose remain the same as identified in the application and order? Please explain whether the purpose has or has not changed since the reservation was granted.

Response: The purpose of the water reservation does remain the same as identified in the application and Order. This water reservation would be utilized in the event of improving water quality and or assisting with the demand of the Town of Winifred. Currently the Town of Winifred continues to grow at a rate of approximately 2% per 10 years.

3. Need: Does the need still exist as identified in the application and order? Please explain why the need does or does not still exist.

Response: Yes, the need does still exist. As stated previously the town continues to grow. The need for additional or a newer well site could be a consideration in the future.

4. Amount: Is the amount still appropriate and in accordance with the application and order? Please explain how you determine the amount needed and how this relates to the original application and order.

Response: The amount requested in the application is still, appropriate. This amount was determined by the engineer that the town was using at the time and growth and demand was taken into consideration when the application was completed.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order? Please explain how the reservation remains in the public interest and what evidence you relied upon to make this determination.

Response: The reservation does still remain in the public interest. This determination was made in the interest in fire protection.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

Response: To the best of my knowledge the Town of Winifred has complied with all of the requests and reports needed in the past. Due to staff changes I do not have details on any follow up reports sent in on behalf of the town of Winifred. At this time the water reservation has not been perfected. The need for the reservation has not changed since the initial application was completed. Please find the original application enclosed. As the Town of Winifred has seen steady growth over the last 10 years, and has explained in its grant applications for the sewer rehabilitation projects and the applications for grants for water system improvements we estimate our growth to continue at about 2% per ten years. Due to the opportunities for growth in the future and the limited availabilities to water in the Winifred area, the town is not wanting to release the water reservation either. The Town is wanting to continue with the current water reservation to be able to meet the future water demands for the interest and safety of the citizens of the Town of Winifred.

7. Perfection: If your use of reserved water has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will you take to ensure perfection of the reservation?

Response: The factors that will determine the perfection of the water reservation will be the continued growth and water demands of the town. As the town grows and demand increases the Town would like to continue to be able to have the availability to the water reservation for municipal water and fire protection. The needs for the reservation remain the same as they were in the original reservation application. In the original application in the interview part there was reference to businesses in town. The Town of Winifred since that interview has added at least two additional businesses. The total established business fronts in the Town of Winifred now totals 11. There is a post office, Ehlerts Garage, Winifred Tire, The Winifred Café and Tavern, Down De Low Bar, CHS Big Sky, The Kut-n-Hut, The Winifred Grocery, Central Montana Insulation, Mid-State Signs, and The A's Building which houses a steak house, 4 lane bowling alley, and an 8 room hotel. There is also a large building that will house 3 apartments in the process of being built. With these additions and the continued growth of the Town there is a sure need to continue the water reservation located in the Judith Basin.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. The need for the reservation has not yet materialized. The Town has been successful in obtaining water use permits through conventional methods¹. It does not appear that the Town will utilize any portion of their reservation by the mandated perfection date of December 31, 2025.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted. The 2013 census identifies a population of 208 people for the Town of Winifred. In preparing municipal water reservations 250 gallons per person per day was commonly used to estimate volume. Using this estimate the 2013 water use for the Town of Winifred was 58 acre-feet per year [(250 gallons per day)(208 persons)(365 days per year)] ÷[325,851 gallons] = 58 acre-feet per year. Existing “municipal” water rights for the Town of Winifred total 159 acre-feet per year.
 It appears that the Town of Winifred has sufficient water rights to serve the current population. However, these rights cannot be relied upon until a final decree is issued. The Montana Water Use Act (1973) initiated a statewide adjudication of all water rights that existed in the state prior to July 1, 1973. The act identifies historic beneficial use as the measure of a water right. The excess volume may not be deemed a valid as it was never put to use. The City of Troy case (DNRC, 1983) exemplifies why existing water rights should not be relied upon to protect future use. In the Water Court Decision, the City of Troy’s water rights were significantly reduced based on historic use. As stated in the ruling, “Appropriators of water cannot maintain a valid claim to an amount of water in excess of the beneficial use to which it is applied, and when the appropriator or his successor ceases to use the water for such beneficial purpose, the right ceases.” Based on this consideration, the Town should not rely on the excess claims for growth. The reservation process should be pursued to provide the legal right for future water supplies.
4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

Town of Winifred Water Rights:

WR #	Type	Status	Priority Date	Purpose	Source	Flow	Volume (AF)
41T 5980 00	Statement of Claim	Active	9/19/1952	Municipal	Groundwater	60 GPM	50
41T 5981 00	Statement of Claim	Active	12/31/1959	Municipal	Groundwater	60 GPM	25
41T 29866 00	Ground Water Certificate	Active	10/15/1980	Municipal	Groundwater	18 GPM	26.12
41T 53441 00	Ground Water Certificate	Active	9/15/1983	Municipal	Groundwater	30 GPM	48
41S 71998 00	Water Reservation	Active	7/1/1985	Municipal	Groundwater	100 GPM	161
41T 103343 00	Provisional Permit	Active	3/16/1998	Municipal	Groundwater	95 GPM	10

Appendix D

Yellowstone Conservation District Reservations

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 995200 Big Horn Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	20,185 acre-feet per year (AF/YR)
Source:	Big Horn River
Acres of Irrigation:	9,175

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Big Horn Conservation District responded on November 10th, 2015 with additional information. Information from Conservation District response, the 2008 10 Year Review, and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 35 reserved water use authorizations and allocated 14,133.65 acre-feet (70 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 35 reserved water use authorizations and developed approximately 70 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation continues to exist. In most of the county water is unavailable for appropriation through the DNRC Provisional Permitting process due to the Crow – Montana Compact Closure. Because the Yellowstone Final Order that established this reservation pre-dates the compact, all projects as approved in the Final Order may be processed.
3. The amount granted appears to be commensurate with demand and thus in compliance.
4. The reservant reports that 70 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 35 Conservation District Records have been issued for a total volume of 14,133.65 acre-feet per year. DNRC records confirm 35 Conservation District Records have been issued however the total volume in the DNRC record is 14,206.65 acre-feet per year. Additionally, discrepancy exists between the reported flow rate and DNRC records. The Crow – Montana compact closure contains language that prohibits the DNRC from processing or granting an application for an appropriation of water within the Big Horn River watershed, the Little Big Horn River watershed, the Pryor Creek watershed, and that portion of the Rosebud Creek watershed above the reservation boundary. All projects approved through the Big Horn County Conservation District reservation are within these drainages. Because these projects were approved through the 1978 Final Order which pre-dates the closure, the DNRC maintains that they can proceed. If any changes are made to the approved projects a change application would have to be processed by the DNRC.
5. Irrigation Rights issued post December 15, 1978, (date of Yellowstone Reservation):

In the 38 years since the reservation was issued 30 provisional permits have been issued for irrigation within Big Horn County for a total volume of 9,573.04 acre-feet per year¹.

- a. 20 of the provisional permits issued were on the reserved source, (Big Horn River) for a total volume of 7,276.54 acre-feet per year.

See next page for list of all water rights issued in Big Horn County since the reservation was established.

¹Big Horn County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
43O 34140 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE BIGHORN RIVER	6/5/1981	12/15/1981	140
43P 34137 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	5/27/1981	12/15/1981	138
43O 40929 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LODGE GRASS CREEK	1/27/1982	7/15/1982	10
43P 45182 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	HUMPHREY COULEE	4/23/1982	11/8/1982	177
42A 48441 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/29/1982	2/3/1983	269
43P 49375 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	4/1/1982	4/26/1983	72
43O 49357 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE BEAVER CREEK	4/15/1982	5/11/1983	240
43O 49358 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	DRY BEAVER CREEK	4/15/1982	5/11/1983	240
43P 49368 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	BIGHORN RIVER	4/30/1982	8/1/1983	950
43O 52330 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LODGE GRASS CREEK	7/12/1983	12/19/1983	995
43P 57896 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	2/21/1985	9/10/1985	833
43O 60453 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WEST PASS CREEK	11/18/1985	5/6/1986	194
43P 58034 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	12/3/1984	9/12/1986	125.28
43O 79785 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT PASS CREEK	10/17/1991	4/10/1992	24
43P 86254 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	6/25/1993	5/8/1995	87
43P 86256 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	6/28/1993	5/8/1995	1018.56
43P 86260 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	6/29/1993	5/8/1995	486
43P 86264 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	6/30/1993	5/8/1995	1120
43P 86287 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/14/1993	5/8/1995	403.8
43P 86293 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/16/1993	5/8/1995	628
43P 86295 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/14/1993	5/8/1995	300
43P 86311 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/27/1993	5/8/1995	30
43P 86312 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/27/1993	5/8/1995	90
43P 86316 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/28/1993	5/8/1995	177.3
43P 86319 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/29/1993	5/8/1995	270
43P 90897 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/21/1994	8/10/1995	92
43P 101428 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	1/2/1997	628
43P 101431 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	1/2/1997	354
43P 97708 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	7/1/1996	6/27/1997	122.6
43P 101484 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	9/4/1997	116.51
43P 101419 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	93.2
43P 101420 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	268.5
43P 101421 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	598
43P 101422 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	158.5
43P 101423 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	156.8
43P 101426 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	957.6
43P 101429 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	29
43P 101430 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	169.8
43P 101432 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	180.55
43P 101433 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/1998	259.4
43P 104950 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	6/24/1998	11/30/1998	13
43P 104939 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIGHORN RIVER	6/11/1998	12/7/1998	320
43P 105895 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT BIGHORN RIVER	9/29/1998	1/15/1999	7.5
43P 107083 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	3/4/1999	165
43P 107084 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	3/4/1999	661.4
43P 30003107	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	1/29/2003	561
43P 30008729	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	10/2/2003	83.11
43P 30006731	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	10/17/2003	39.6
43P 30008726	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	1/27/2004	179
43P 30016212	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	8/11/2005	648
43P 30016214	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	10/18/2005	1500
43P 30030293	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	5/1/2008	112
43P 30044429	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	5/5/2011	872
43P 30041866	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	5/13/2011	274
43P 30049951	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	5/13/2011	810.4
43P 30045429	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	10/12/2011	406.88
43P 30048025	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	11/4/2011	78.8
43P 30065751	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	12/11/2013	195
43P 101427 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	4/23/2014	383
43P 30104553	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	4/23/2014	356.6
43P 30067836	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	5/28/2014	317
43P 30069009	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	9/9/2014	96
43P 30068967	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	10/3/2014	170
43P 30068985	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	10/3/2014	1440
43P 30072431	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BIGHORN RIVER	12/15/1978	5/7/2015	888

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994400 Carbon County Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	22,676 acre-feet per year (AF/YR)
Source:	Yellowstone River, Clarks Fork of the Yellowstone, Rock Creek, Red Lodge Creek
Acres of Irrigation:	10,034

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Carbon County Conservation District responded on November 10th, 2015 with additional information. Information from the Carbon County Conservation District response, 2015 10 Year Review, and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 5 reserved water use authorizations and allocated 1,424.3 acre-feet (6.3 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 5 reserved water use authorizations and developed approximately 6.3 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process except in the Rock Creek drainage and that portion of the county that is drained by the Big Horn River. The Rock Creek drainage is closed to all new appropriations of surface water during most of the irrigation season. Because the Yellowstone Final Order that established this reservation pre-dates these closures the DNRC determines that all projects as approved in the Final Order may be processed.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 6.3 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 5 Conservation District Records have been issued for a total of 1, 424.3 acre-feet per year. DNRC records confirm the Districts reporting.
5. Irrigation Rights issued post December 15, 1978¹, (Date of Yellowstone Reservation): In the 38 years since the reservation was issued 35 provisional permits have been issued for irrigation within Carbon County. One provisional permit remains pending.
 - 6 of the provisional permits issued were on a source available for development through the Carbon County Conservation District water reservation. The total volume of these permits is 4,696 acre-feet per year.

¹Carbon County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
43D 23785 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/11/1979	11/2/1979	24
43D 25988 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	WOODS GULCH CREEK	1/3/1980	8/27/1981	357
43D 33041 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CLARKS FORK YELLOWSTONE RIVER	1/7/1981	9/11/1981	35
43D 33508 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SURFACE WATER	5/8/1981	9/14/1981	6
43N 33843 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SAGE CREEK	6/10/1981	11/6/1981	19.44
43D 33332 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CLARKS FORK YELLOWSTONE RIVER	1/16/1981	12/15/1981	397
43D 26408 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	RED LODGE CREEK	2/1/1980	1/13/1982	4200
43D 35563 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SURFACE WATER	8/11/1981	2/17/1982	42.7
43C 38718 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	EAST ROSEBUD CREEK	10/15/1981	4/13/1982	48
43D 34646 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	CLARKS FORK YELLOWSTONE RIVER	7/1/1981	4/13/1982	37
43D 41083 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CLARKS FORK YELLOWSTONE RIVER	2/4/1982	6/22/1982	15
43D 41750 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT DRY CREEK	2/18/1982	7/30/1982	64.8
43D 38713 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	HOWELL GULCH	9/2/1981	8/13/1982	0.5
43D 43124 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	ROCK CREEK	3/31/1982	1/20/1983	12
43D 49028 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/27/1982	2/3/1983	800
43D 41418 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT ROCK CREEK	2/8/1982	4/26/1983	26.5
43D 41419 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/8/1982	4/26/1983	26.5
43D 42358 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT ROCK CREEK	1/12/1982	4/26/1983	1.5
43D 52247 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT ROCK CREEK	4/15/1983	9/12/1983	8
43D 52280 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CLARKS FORK YELLOWSTONE RIVER	5/12/1983	9/26/1983	39
43D 52281 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CLARKS FORK YELLOWSTONE RIVER	5/12/1983	9/26/1983	69
43C 54182 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	EAST ROSEBUD CREEK	12/15/1978	9/8/1984	48
43C 56190 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	EAST ROSEBUD CREEK	8/27/1984	2/8/1985	23.28
43D 60443 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	DRY CREEK, SOUTH FORK	11/12/1985	11/6/1986	188
43D 72563 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	ROCK CREEK	12/15/1978	7/17/1989	270
43D 72564 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CLEAR CREEK	12/15/1978	7/17/1989	270
43D 72302 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SCHROEDER GULCH	8/9/1989	1/29/1990	11
43D 62454 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	7/25/1986	5/30/1990	25.22
43D 62455 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	7/25/1986	5/30/1990	25.22
43D 70867 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CLARKS FORK YELLOWSTONE RIVER	12/15/1978	9/18/1991	112
43D 73505 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	UT WILLOW CREEK	5/31/1990	1/30/1992	8.85
43D 86251 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CLARKS FORK YELLOWSTONE RIVER	6/25/1993	10/25/1993	75
43D 85383 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CLARKS FORK YELLOWSTONE RIVER	4/6/1993	12/10/1993	32
43D 107177 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BRIDGER CREEK	7/9/1999	1/20/2000	12.5
43D 107169 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CLARKS FORK YELLOWSTONE RIVER	6/30/1999	5/31/2000	63
43D 113916 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	3/1/2001	6/21/2002	69
43D 30004691	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	12/18/2002	4/11/2003	30
43D 30010334	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/22/2004	5/4/2006	528
43D 102266 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	HUNT CREEK	12/11/1997	8/1/2007	250
43QJ 30051343	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	8/9/2011	724.3
43D 30103712	PROVISIONAL PERMIT	PEND	IRRIGATION	UT OF GOLD CREEK	9/9/2015	<Null>	71.6

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994700 Custer County Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	28,478 acre-feet per year (AF/YR)
Source:	Yellowstone River – 18,301 AF/YR Powder River & tributaries – 10,177 AF/YR
Acres of Irrigation:	Yellowstone River – 7,440 Powder River – 4,200

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Custer County Conservation District responded on October 28th, 2015, with additional information. Information submitted by the reservant, information from the 2008 10 Year Review, and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 19 reserved water use authorizations and allocated 9,623.3 AF/YR from the Yellowstone River and 3,106.7 AF/YR from the Powder River (44.7 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 19 reserved water use authorizations and developed approximately 44.7 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.

4. The reservant reports that 44.7 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 19 Conservation District Records have been issued for a total of 12,730 acre-feet per year.

DNRC records confirm the perfected total reported by the district.

5. Irrigation Rights issued post December 15, 1978:

In the 38 years since the reservation was issued 32 provisional permits have been issued for irrigation within Custer County for a total volume of 10,056.12 acre-feet per year¹.

- 15 of the provisional permits issued were on the reserved source, (Yellowstone River, Powder River & tributaries) for a total volume of 7,375.5 acre-feet per year.
- One additional provisional permit for a volume of 914 acre-feet per year from the Powder River is pending.

¹Custer County Irrigation Rights
 Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
42K 22445 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TREE CREEK	4/11/1979	9/21/1979	55
42K 23588 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	ASH CREEK	6/6/1979	11/30/1979	25
42J 24563 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT COAL CREEK	5/18/1979	5/12/1980	49.5
42J 24564 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	COAL CREEK	5/18/1979	5/12/1980	495
42L 26310 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT O'FALLON CREEK	1/15/1980	5/12/1980	45
42C 21871 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TONGUE RIVER	2/9/1979	5/23/1980	725
42C 27500 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TONGUE RIVER	5/23/1980	1/30/1981	2.5
42J 31339 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BRIDGE CREEK	1/2/1981	6/17/1981	45
42J 32450 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	3/4/1981	10/5/1981	249
42K 33841 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SUNDAY CREEK	6/2/1981	10/21/1981	36
42J 34141 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	6/12/1981	2/17/1982	1757
42C 37692 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SURFACE WATER	10/20/1981	3/2/1982	54
42C 39883 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TONGUE RIVER	1/12/1982	5/21/1982	48
42L 39882 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	O'FALLON CREEK	1/14/1982	6/11/1982	31
42J 24489 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MIZPAH CREEK	9/18/1979	7/30/1982	549.12
42J 26010 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MIZPAH CREEK	11/6/1979	7/30/1982	2566
42J 26013 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MIZPAH CREEK	11/6/1979	7/30/1982	417
42J 26016 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MIZPAH CREEK	11/6/1979	7/30/1982	153.5
42J 26020 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	ROAD CREEK	11/6/1979	7/30/1982	198
42J 26021 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT MIZPAH CREEK	11/6/1979	7/30/1982	264
42K 36698 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	9/29/1981	7/30/1982	589.6
42K 43617 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SUNDAY CREEK	4/1/1982	10/1/1982	1.6
42J 43620 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	3/26/1982	10/8/1982	77.1
42J 54992 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	63
42C 48754 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TONGUE RIVER	11/30/1982	6/16/1983	<Null>
42K 54993 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	11/4/1983	564
42K 55019 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/23/1983	51.3
42J 43985 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	3/19/1982	9/7/1984	368.5
42J 56542 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	9/7/1984	421.5
42J 56517 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	11/17/1984	70.2
42J 56552 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	8/20/1984	2/28/1985	69
42K 58897 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	JONES CREEK	2/19/1985	7/8/1985	10
42K 59071 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	9/5/1986	25
42K 63240 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	3/22/1988	10
42C 69993 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PUMPKIN CREEK	1/5/1989	3/28/1989	99
42J 71396 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	7/17/1989	495
42J 71422 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	11/21/1989	225
42J 74876 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	6/7/1990	620
42K 74877 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	9/1/1990	213
42K 75554 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	9/26/1990	4/4/1991	90
42J 76838 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	6/18/1991	442
42J 83589 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	DAWSON CREEK	9/9/1992	11/12/1993	72.7
42K 101414 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	9/11/1997	111
42KJ 109942 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	6/2/2000	237
42J 30006686	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	6/3/2003	770
42K 30005903	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	7/29/2003	920
42KJ 30030608	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/18/2008	1950
42K 30065106	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	10/30/2013	3857
42K 30066970	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/11/2013	1685
42J 30072589	PROVISIONAL PERMIT	PEND	IRRIGATION	POWDER RIVER	3/2/2015	<Null>	914
							14353.2

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 995100 Dawson County Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	45,855 acre-feet per year (AF/YR)
Source:	Yellowstone River
Acres of Irrigation:	18,127

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Prairie County Conservation District responded on December 21st, 2015, indicating that the 2008 10 Year Review, (with minor edits submitted by the District), was sufficient. Information from the 2008 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 14 reserved water use authorizations and allocated 5,525AF/YR (12 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 14 reserved water use authorizations and developed approximately 12 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.
- The District has taken the following actions toward perfecting this reservation:
In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 12 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 14 Conservation District Records have been issued for a total of 5,525 acre-feet per year.
DNRC records confirm the numbers provided by the Conservation District.
 - Conservation District Record 42M2770-00 needs to have the Dawson County CD added as an owner in DNRC records.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 16 provisional permits have been issued for irrigation within Dawson County for a total volume of 1,625.75 acre-feet per year¹.
 - 2 of the provisional permits issued were on the reserved source, (Yellowstone River) for a total volume of 10 acre-feet per year.

¹Dawson County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
42M 27405 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/24/1979	2/18/1981	10
42M 56488 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	8/7/1981	1300
42M 56487 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/23/1983	82
42M 71445 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	3/5/1990	200
42M 74875 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	6/7/1990	860
42M 85551 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	9/2/1993	435
42M 97792 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	6/27/1996	12/31/1996	<Null>
42M 102770 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	4/11/1997	5/19/1997	96
42M 111403 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	8/14/2000	262
42M 111464 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	11/6/2000	500
42M 114739 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	6/7/2001	320
42M 114769 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	6/11/2001	54
42M 114764 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	7/10/2001	284
42M 30001427	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	6/6/2002	578
42M 30006008	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	4/14/2003	170
42M 30011028	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	2/14/2005	384

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1134900 Little Beaver Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	12,733acre-feet per year (AF/YR)
Source:	O'Fallon Creek, Pennell Creek, Cabin Creek and their tributaries
Purpose:	This reservation is unique in that it includes irrigation, stock ponds, and recreational ponds

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Little Beaver Conservation District responded on November 10th, 2015, indicating that the 2015 10 Year Review was sufficient. Information from the 2015 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 39 reserved water use authorizations and allocated 1,322.4 AF/YR (10.4 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 39 reserved water use authorizations and developed approximately 10.4 % of their reservation.

- The following factors have deterred progress toward perfecting this reservation: The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

- The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
- Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
- The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
- The reservant reports that 10.4 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 39 Conservation District Records have been issued for a total of 1,322.4 acre-feet per year. DNRC records confirm 39 Conservation District Records issued, however the DNRC total volume is 1,311.6 acre-feet per year.
- Provisional Permits issued post December 15, 1978, (date of issue for Yellowstone Reservations), within the Little Beaver Conservation District:
In the 38 years since the reservation was issued 24 provisional permits have been issued from drainages tributary to the Yellowstone River for purposes authorized through the Final Order for a total volume of 1,004.5 acre-feet per year¹. None of these appropriations were from a reserved source, however, conservation districts routinely submit change applications to the DNRC that seek to develop reserved water on an alternate source.

¹Little Beaver Conservation District Water Rights, (Yellowstone River Drainage)

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volum
42L 22167 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SOUTH FORK SANDSTONE CREEK	3/19/1979	8/1/1979	38
42M 23697 00	PROVISIONAL PERMIT	ACTV	STOCK	UT MIDDLE FORK CABIN CREEK	7/13/1979	12/23/1979	2
42M 24481 00	PROVISIONAL PERMIT	ACTV	STOCK	UT MIDDLE FORK CABIN CREEK	9/5/1979	2/22/1980	5
42L 24768 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT PENNELL CREEK	9/25/1979	6/30/1980	67.5
42L 27339 00	PROVISIONAL PERMIT	ACTV	STOCK	UT SANDSTONE CREEK	4/28/1980	9/10/1980	1
42L 32729 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT PINE CREEK	2/24/1981	7/30/1981	15
42L 32023 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SANDSTONE CREEK	2/11/1981	8/12/1981	180
42L 32724 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT HAY CREEK	4/14/1981	9/11/1981	45
42L 35789 00	PROVISIONAL PERMIT	ACTV	STOCK; WILDLIFE/WATERFOWL	UT COTTONWOOD CREEK	9/10/1981	1/7/1982	3
42L 35788 00	PROVISIONAL PERMIT	ACTV	STOCK; WILDLIFE/WATERFOWL	UT SANDSTONE CREEK	9/10/1981	1/7/1982	27
42L 36244 00	PROVISIONAL PERMIT	ACTV	STOCK	UT SANDSTONE CREEK	9/17/1981	1/18/1982	2
42L 38052 00	PROVISIONAL PERMIT	ACTV	FISH AND WILDLIFE; STOCK	UT SOUTH FORK SANDSTONE CREEK	11/3/1981	3/17/1982	18
42L 34885 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SANDSTONE CREEK	8/3/1981	3/26/1982	38
42L 39750 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT ASH CREEK	1/18/1982	6/22/1982	79.5
42L 41797 00	PROVISIONAL PERMIT	ACTV	STOCK	UT PENNELL CREEK	3/2/1982	8/13/1982	1.2
42L 45122 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT LAME JONES CREEK	4/16/1982	10/1/1982	9
42L 42701 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT HAY CREEK	3/15/1982	10/8/1982	50
42L 48655 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SANDSTONE CREEK	9/22/1982	2/28/1983	36
42L 56527 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CREEK, DRY FORK	12/15/1978	5/6/1983	60
42L 52421 00	PROVISIONAL PERMIT	ACTV	WILDLIFE/WATERFOWL	UT SANDSTONE CREEK	3/11/1983	8/1/1983	28
42L 56529 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	SANDSTONE CREEK	12/15/1978	8/19/1983	180
42L 56545 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT ASH CREEK	12/15/1978	8/19/1983	23
42L 56531 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT PINE CREEK	12/15/1978	8/19/1983	15
42L 56532 00	CONSERVATION DISTRICT RECORD	ACTV	STOCK	UT RED BUTTE CREEK	12/15/1978	8/19/1983	2
42L 56547 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SANDSTONE CREEK	12/15/1978	8/19/1983	270
42L 48633 00	PROVISIONAL PERMIT	ACTV	WILDLIFE/WATERFOWL	UT SANDSTONE CREEK	3/18/1982	9/16/1983	408
42L 56534 00	CONSERVATION DISTRICT RECORD	ACTV	STOCK	UT PENNELL CREEK	12/15/1978	11/4/1983	14
42M 56533 00	CONSERVATION DISTRICT RECORD	ACTV	STOCK	UT MIDDLE FORK CABIN CREEK	12/15/1978	11/4/1983	9.6
42L 56550 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	HAY CREEK	12/15/1978	5/11/1984	60
42L 56528 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT COTTONWOOD CREEK	12/15/1978	5/11/1984	22.5
42L 56551 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SOUTH FORK SANDSTONE CREEK	12/15/1978	5/11/1984	42
42L 56565 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT PENNELL CREEK	12/15/1978	7/26/1984	7.5
42L 59050 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SANDSTONE CREEK	12/3/1985	5/6/1986	<Null>
42L 59068 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SANDSTONE CREEK	12/15/1978	5/9/1986	8
42L 59069 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SOUTH FORK SANDSTONE CREEK	12/15/1978	5/9/1986	10
42L 59070 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SOUTH FORK SANDSTONE CREEK	12/15/1978	5/9/1986	12
42L 63109 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SOUTH FORK SANDSTONE CREEK	12/15/1978	9/4/1986	8
42L 63128 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LAME JONES CREEK	9/11/1986	2/23/1987	138.5
42L 63202 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	COTTONWOOD CREEK, NORTH FORK	12/15/1978	6/5/1987	72
42L 63219 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SOUTH FORK SANDSTONE CREEK	12/15/1978	8/28/1987	10
42L 63287 00	CONSERVATION DISTRICT RECORD	ACTV	STOCK	UT O'FALLON CREEK	12/15/1978	3/21/1988	3
42L 71423 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT PENNELL CREEK	12/15/1978	11/20/1989	30
42L 71425 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT PENNELL CREEK	12/15/1978	11/20/1989	80
42L 74879 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT PENNELL CREEK	12/15/1978	6/7/1990	8
42L 74878 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	PENNELL CREEK	12/15/1978	8/31/1990	40
42L 74880 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT PENNELL CREEK	12/15/1978	8/31/1990	4.5
42L 56535 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	PENNELL CREEK	12/15/1978	12/13/1990	28.5
42M 76837 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT CABIN CREEK	12/15/1978	2/8/1991	44
42M 76852 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CABIN CREEK	12/15/1978	4/11/1991	44
42L 76839 00	CONSERVATION DISTRICT RECORD	ACTV	STOCK	UT PENNELL CREEK	12/15/1978	4/11/1991	2
42M 76870 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CABIN CREEK	12/15/1978	6/17/1991	17
42M 76869 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CABIN CREEK, NORTH FORK	12/15/1978	6/17/1991	10.5
42M 83598 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CABIN CREEK	12/15/1978	4/2/1993	16
42M 83599 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT CABIN CREEK	12/15/1978	4/2/1993	16
42L 85563 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	SANDSTONE CREEK, SOUTH FORK	12/15/1978	1/27/1994	19.5
42M 36242 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CABIN CREEK, MIDDLE FORK	9/16/1981	5/19/1994	210
42M 80600 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CABIN CREEK, MIDDLE FORK	2/24/1992	7/15/1994	220
42L 92917 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	SANDSTONE CREEK	12/15/1978	2/10/1995	24
42L 92918 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT SANDSTONE CREEK	12/15/1978	2/10/1995	5
42M 109928 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	CABIN CREEK	12/15/1978	3/1/2000	21
42L 30009469	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	PENNELL CREEK	12/15/1978	1/7/2004	24
42L 30009489	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT PENNELL CREEK	12/15/1978	1/7/2004	3
42L 30064073	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	PENNELL CREEK	12/15/1978	11/7/2012	46

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1000400

Park Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	64,125 acre-feet per year (AF/YR)
Source:	Yellowstone River & Shields River
Acres of Irrigation:	21,664

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Park Conservation District. Information from the 2008 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 6 reserved water use authorizations and allocated 1,586.4 acre-feet (2.4%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 6 reserved water use authorizations and developed approximately 2.4% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 2015 Annual Progress Report the District reports that 1,586.4 acre-feet per year (2.4%) of the allocated volume has been perfected. DNRC records indicate a volume of 1,122 acre-feet per year allocated, (1.7%) of the allocated volume has been perfected. All Conservation District rights issued were on the reserved source, (Yellowstone River).
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 70 provisional permits have been issued for irrigation within Park County for a total volume of 4,984.64 acre-feet per year¹.
 - 16 of the provisional permits issued were on the reserved source, (Yellowstone River) for a total volume of 58.11 acre-feet per year.
 - One additional provisional permit for a volume of 198.5 acre-feet per year from the Yellowstone River has remained pending since 2009.

¹Park County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
43B 26809 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	11/30/1979	6/8/1980	2
43B 30257 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CANYON CREEK	6/13/1980	3/16/1981	6
43BJ 30639 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BRIDGE CREEK	5/12/1980	3/16/1981	104
43B 26953 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	3/20/1980	5/6/1981	2.5
43B 30640 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	7/9/1980	5/6/1981	3.75
43B 29978 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TEEPEE CREEK	10/21/1980	7/30/1981	10
43B 31344 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TOM MINER CREEK	11/17/1980	7/30/1981	3
43B 32589 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SODA BUTTE CREEK	1/15/1981	7/30/1981	2
43A 32599 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT PORCUPINE CREEK	3/20/1981	8/27/1981	89.5
43B 33034 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	4/9/1981	10/1/1981	6.6
43A 34997 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/22/1981	11/10/1981	20
43B 34201 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BILLMAN CREEK	4/22/1981	1/7/1982	3.75
43A 36997 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CRAZYHEAD CREEK	6/19/1981	4/6/1982	1
43A 38502 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	ROCK CREEK	10/13/1981	4/6/1982	36.41
43A 38078 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SHIELDS RIVER	9/16/1981	4/13/1982	31.5
43B 35878 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	9/4/1981	6/11/1982	2
43B 38501 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	11/20/1981	6/22/1982	1.6
43B 24629 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	10/2/1979	7/15/1982	0.5
43B 36183 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	9/22/1981	7/15/1982	1.56
43D 44590 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	CLARKS FORK YELLOWSTONE RIVER	5/3/1982	12/2/1982	6.24
43B 56191 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	5/6/1983	500
43B 52998 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	4/20/1983	9/16/1983	2.7
43B 57179 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	9/25/1984	1/10/1985	5
43B 58393 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CINNABAR CREEK	3/18/1985	11/4/1985	1.26
43B 61524 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BEAR CREEK	6/6/1986	10/31/1986	2
43B 61536 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	PHELPS CREEK	6/13/1986	1/26/1987	3.15
43B 61536 01	PROVISIONAL PERMIT	ACTV	IRRIGATION	PHELPS CREEK	6/13/1986	1/26/1987	0.4
43B 61536 02	PROVISIONAL PERMIT	ACTV	IRRIGATION	PHELPS CREEK	6/13/1986	1/26/1987	0.4
43B 61536 03	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	PHELPS CREEK	6/13/1986	1/26/1987	4.05
43B 61536 04	PROVISIONAL PERMIT	ACTV	IRRIGATION	PHELPS CREEK	6/13/1986	1/26/1987	0.7
43B 66332 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	8/29/1987	225
43B 67131 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	4/19/1988	6/29/1988	2
43B 68235 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT YELLOWSTONE RIVER	5/31/1988	11/15/1988	24.07
43A 70152 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	HORSE CREEK	1/17/1989	3/28/1989	37.72
43B 70900 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	4/11/1989	8/11/1989	1.15
43B 26291 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE DONAHUE CREEK WEST CREEK	10/16/1979	3/1/1990	177
43B 72565 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	3/5/1990	240
43B 72730 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	DEEP CREEK	10/23/1989	4/16/1990	87.5
43B 73132 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	11/9/1989	4/16/1990	1.3
43B 74932 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	YELLOWSTONE RIVER	7/17/1990	10/5/1990	19.7
43B 74927 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	7/13/1990	10/10/1990	1.25
43B 74393 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT YELLOWSTONE RIVER	5/23/1990	11/2/1990	0.93
43B 73695 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	7/3/1991	104
43B 73723 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	7/3/1991	15
43B 77933 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	6/21/1991	12/3/1991	81.4
43B 80699 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/26/1992	4/7/1992	5
43B 82682 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	8/19/1992	7/13/1993	15
43B 82681 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/19/1992	8/11/1993	10.26
43B 85066 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	2/23/1993	4/11/1995	11.23
43B 92447 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	11/21/1994	6/20/1995	4
43B 90827 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	7/27/1994	10/5/1995	8.56
43B 79987 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	9/3/1992	9/6/1996	219.9
43B 92598 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	11/7/1996	2/19/1997	9.5
43B 99485 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	11/7/1996	2/19/1997	9.5
43A 100824 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SHIELDS RIVER	10/22/1997	1/12/1998	401.13
43B 107600 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT BULLIS CREEK	7/12/1999	12/22/1999	25
43B 109000 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	1/24/2000	3/31/2000	6
43A 87253 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT WILLOW CREEK	12/2/1993	10/11/2000	113.4
43A 70877 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WILLOW CREEK, MIDDLE FORK	2/14/1989	10/17/2000	213.8
43A 91446 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	WILLOW CREEK	9/28/1994	1/16/2001	1260.87
43B 113285 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	8/17/2000	7/17/2001	26
43B 113285 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	8/17/2000	7/17/2001	26
43B 115513 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/11/2001	4/2/2002	100
43B 115551 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	4/30/2001	9/12/2002	2.7
43B 30001745	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	4/11/1989	10/3/2002	2.5
43A 116538 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CHICKEN CREEK	8/14/2001	2/13/2003	623
43A 30002112	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	5/14/2002	1/16/2004	92.25
43B 30004838	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	SLIP AND SLIDE CREEK	1/2/2003	2/2/2004	548.25
43B 30009947	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	10/28/2004	38
43B 30011348	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	7/6/2004	1/20/2005	10
43B 30041630	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE DONAHUE CREEK	2/6/2008	1/13/2009	38.5
43B 30041732	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/8/2008	12/20/2010	129
43B 30067542	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/30/2013	1/27/2016	10
43B 30067543	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/30/2013	1/27/2016	10
43B 30045005	PROVISIONAL PERMIT	PEND	IRRIGATION	YELLOWSTONE RIVER	5/7/2009	<Null>	198.5
43B 30066938	PROVISIONAL PERMIT	PEND	IRRIGATION	GROUNDWATER	9/10/2013	<Null>	67.2
							6106.64

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994300 Powder River Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	13,680 acre-feet per year (AF/YR)
Source:	Powder River
Acres of Irrigation:	9,120

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Powder River Conservation District responded on December 30th, 2015, indicating that the 2015 10 Year Review was sufficient. Information from the 2015 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 28 reserved water use authorizations and allocated 8,158.5 AF/YR (59.6 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 28 reserved water use authorizations and developed approximately 59.6 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 59.6 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 28 Conservation District Records have been issued for a total of 8,158.5 acre-feet per year. DNRC records confirm the numbers reported by the District.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 47 provisional permits have been issued for irrigation within Powder River County for a total volume of 4,763 acre-feet per year¹.
 - 10 of the provisional permits issued were on the reserved source, (Powder River) for a total volume of 2,568 acre-feet per year.

¹Powder River County Irrigation Rights

• Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

42I 21990 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	LITTLE POWDER RIVER	2/9/1979	10/19/1979	45
42I 21992 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	2/9/1979	10/19/1979	130
42I 21994 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	2/9/1979	10/19/1979	115
42I 21664 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LIGHTNING CREEK	1/17/1979	10/19/1979	127.5
42I 21665 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PILGRIM CREEK	1/17/1979	10/19/1979	33
42I 23012 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	6/4/1979	5/23/1980	90
42I 24580 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	9/13/1979	5/23/1980	60
42I 27195 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	ANTELOPE CREEK	3/25/1980	7/14/1980	27
42I 27291 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT LITTLE POWDER RIVER	4/11/1980	8/12/1980	18
42I 27292 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	2/27/1980	9/10/1980	105
42I 27406 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PEAYS GULCH	4/9/1980	9/15/1980	11
42I 25039 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SURFACE WATER	9/26/1979	11/14/1980	75
42I 25040 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PEAYS GULCH	9/26/1979	11/14/1980	32.25
42C 30924 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SCHILLER CREEK	11/6/1980	1/23/1981	6
42I 27322 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	4/29/1980	1/30/1981	215
42I 28595 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	8/5/1980	1/30/1981	67
42I 31636 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	2/9/1981	7/30/1981	138.4
42I 31749 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SURFACE WATER	2/18/1981	7/30/1981	192
42C 32811 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT PUMPKIN CREEK	3/16/1981	8/12/1981	45
42C 32803 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT LITTLE PUMPKIN CREEK	3/16/1981	8/27/1981	63.5
42I 32802 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	3/26/1981	9/11/1981	360
42C 32812 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PUMPKIN CREEK	3/16/1981	10/5/1981	12
42I 32567 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	4/9/1981	10/21/1981	100
42I 35552 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	8/6/1981	12/5/1981	12
42I 35551 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	8/6/1981	12/15/1981	65
42I 35553 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	8/6/1981	12/15/1981	55
42I 35554 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	8/6/1981	12/15/1981	30
42I 35555 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	8/6/1981	12/15/1981	30
42I 35556 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	8/6/1981	12/15/1981	16
42I 35557 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	8/6/1981	12/15/1981	26
42I 39885 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	1/11/1982	7/15/1982	829
42C 43992 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT KIWAH CREEK	4/13/1982	10/1/1982	6
42I 56574 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	1/21/1983	499
42I 56575 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	1/21/1983	200
42I 56571 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	138
42I 56572 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	75
42I 56576 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	67
42I 56578 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	360
42I 56579 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	626
42I 56580 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	624
42I 56618 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	829
42I 56619 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	326
42I 56620 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	249
42I 56621 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	587.5
42I 56622 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	125
42I 56623 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/6/1983	111
42I 52422 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER, EAST FORK	3/21/1983	8/17/1983	27
42I 52398 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	2/17/1983	8/17/1983	<Null>
42I 52423 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	3/25/1983	8/17/1983	97.3
42C 54825 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SCHILLER CREEK	11/7/1983	3/8/1984	10.5
42I 56569 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	11/16/1984	26
42I 58979 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	10/11/1985	80
42I 58949 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	6/12/1985	11/4/1985	95
42I 56573 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	1/31/1986	750
42I 59054 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	1/2/1986	4/18/1986	74
42I 63239 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	10/19/1987	65
42I 68057 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	2/16/1988	5/3/1988	24
42I 69978 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	1/16/1989	795
42I 71394 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	7/17/1989	128
42I 71411 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	9/11/1989	113
42I 71420 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	12/8/1989	3/2/1990	37
42I 71430 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	3/5/1990	150
42I 71431 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	3/5/1990	90
42I 76835 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	2/8/1991	243
42I 76836 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	2/8/1991	128
42I 76864 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	4/24/1991	8/6/1991	9
42I 94752 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	8/15/1995	50
42I 114736 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	5/21/2001	688
42I 115330 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	6/27/2001	6/5/2002	190.8
42I 115377 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/10/2001	12/21/2004	75
42I 30006605	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/27/2003	10/31/2006	125
42I 30006606	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/27/2003	1/31/2007	385
42I 30041715	PROVISIONAL PERMIT	ACTV	IRRIGATION	LITTLE POWDER RIVER	4/3/2008	8/31/2010	177
42I 30065747	PROVISIONAL PERMIT	ACTV	IRRIGATION	POWDER RIVER	3/14/2013	2/19/2014	750
42I 30069520	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	POWDER RIVER	12/15/1978	6/11/2014	36

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994600 Prairie County Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	68,467 acre-feet per year (AF/YR)
Source:	Yellowstone River & Powder River
Acres of Irrigation	22,241 – Yellowstone River 295 – Powder River

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Prairie County Conservation District responded on December 30th, 2015, indicating that the 2015 10 Year Review was sufficient. Information from the 2015 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 14 reserved water use authorizations and allocated 8,285 AF/YR (12.1 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 14 reserved water use authorizations and developed approximately 12.1 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 12.1 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 14 Conservation District Records have been issued for a total of 8,348 acre-feet per year.
DNRC records indicate 14 Conservation District Records have been issued for a total of 8,285 acre-feet per year.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 34 provisional permits have been issued for irrigation within Prairie County for a total volume of 3,593.97 acre-feet per year¹.
 - 2 of the provisional permits issued were on the reserved source, (Yellowstone River) for a total volume of 965 acre-feet per year.

¹Prairie County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Status	Purposes	Source Name	Priority Date	Date Issued	Volume
42M 21718 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CABIN CREEK	1/24/1979	8/7/1979	42
42M 21719 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CABIN CREEK	1/24/1979	8/7/1979	8
42M 23899 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PLENTY CREEK	7/25/1979	12/23/1979	90
42M 23891 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CABIN CREEK	7/12/1979	4/15/1980	82.5
42M 21442 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/21/1978	5/6/1980	750
42M 21715 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SPRING CREEK	1/3/1979	7/31/1980	12
42M 22293 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SPRING CREEK	3/23/1979	7/31/1980	3
42M 27130 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BRACKETT CREEK	3/18/1980	9/12/1980	74.7
42M 27295 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	NORTH CHERRY CREEK, NORTH FORK	4/8/1980	2/20/1981	10.5
42M 30926 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	11/26/1980	5/19/1981	215
42M 33330 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	GROUNDWATER	4/6/1981	9/11/1981	511.8
42M 33334 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	5/5/1981	9/14/1981	228
42M 33329 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/6/1981	3/2/1982	210
42M 33333 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/29/1981	3/2/1982	275
40E 37182 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT HAY CREEK	11/4/1981	4/13/1982	39.5
42M 39886 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	1/8/1982	6/11/1982	42.5
42L 32014 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	O'FALLON CREEK	1/12/1981	2/3/1983	160
42L 48730 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	O'FALLON CREEK	11/15/1982	4/19/1983	<Null>
42M 56626 01	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	4/20/1983	338
42M 56624 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/23/1983	792
42M 56626 01	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/23/1983	338
42M 56626 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/23/1983	1875
42M 27293 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CABIN CREEK	4/21/1980	1/20/1984	27
42M 54844 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/28/1983	5/10/1984	88
42L 54967 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT WHITNEY CREEK	2/22/1984	5/10/1984	45
42M 58899 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	5/10/1985	690
42M 21720 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CABIN CREEK	1/24/1979	1/31/1986	105
42J 63183 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/19/1986	178
42M 54911 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	1/26/1984	3/24/1988	37.67
42M 54963 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CHERRY CREEK	2/16/1984	4/2/1990	32
42M 71462 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CHERRY CREEK, NORTH FORK	1/22/1990	5/8/1990	24.5
42M 71461 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CHERRY CREEK	1/22/1990	5/8/1990	22
42M 71459 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT NORTH FORK CHERRY CREEK	1/22/1990	5/8/1990	16
42M 71460 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT NORTH FORK CHERRY CREEK	1/22/1990	5/8/1990	14
42M 71467 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CHERRY CREEK	1/30/1990	7/3/1990	60
42M 71468 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CHERRY CREEK	1/30/1990	7/3/1990	20
42M 76358 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	4/12/1991	364
42M 78353 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	1/6/1992	120
42M 78661 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CABIN CREEK	7/26/1991	1/14/1992	67.5
42M 83567 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CHERRY CREEK	10/7/1993	8/12/1994	15
42M 101385 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CABIN CREEK	3/31/1997	10/23/1998	60.8
42L 113872 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	PINE CREEK	1/22/2001	6/29/2004	205
42M 30026583	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	9/5/2007	220
42M 30063056	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	6/20/2012	1755
42M 30068870	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	3/19/2014	748
42M 30069398	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	5/12/2014	168
42M 30069397	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	5/21/2014	378
42M 30069018	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	9/26/2014	227

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994500 Richland County Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	45,620 acre-feet per year (AF/YR)
Source:	Yellowstone River
Acres of Irrigation:	21,710

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Richland County Conservation District responded on November 10th, 2015, indicating that the 2015 10 Year Review was sufficient. Information from the 2015 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 8 reserved water use authorizations and allocated 4,923 AF/YR (10.8 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 8 reserved water use authorizations and developed approximately 10.8 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 10.8 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 8 Conservation District Records have been issued for a total of 4,923 acre-feet per year.
DNRC records indicate 9 Conservation District Records have been issued for a total of 5,435 acre-feet per year.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 16 provisional permits have been issued for irrigation within Richland County for a total volume of 3,950.45 acre-feet per year¹.
 - 3 of the provisional permits issued were on the reserved source, (Yellowstone River) for a total volume of 1,002.55 acre-feet per year.

¹Richland County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
42M 22002 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	3/2/1979	9/21/1979	528.7
42M 21723 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LONE TREE CREEK, SOUTH FORK	1/24/1979	10/19/1979	180
42M 35433 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	DUNLAP CREEK	5/29/1981	1/25/1982	15
42M 39472 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LONE TREE CREEK	7/29/1980	2/17/1982	460
42M 38072 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT WEST FORK THREE BUTTES CREEK	3/20/1981	3/26/1982	81
42M 32939 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	5/7/1981	6/11/1982	198.45
42M 56629 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	11/4/1983	54
42M 56628 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	1/20/1984	727
42M 55525 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	6/5/1984	8/20/1984	275.4
42M 31303 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	7/14/1980	3/29/1989	135
42M 80579 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	5/29/1992	870
42M 89085 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	3/14/1994	8/4/1994	11.7
42M 89888 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	8/15/1994	12/5/1994	33.5
42M 89849 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/16/1994	1540
42M 104509 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/30/1998	412
42M 114728 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/30/1998	271
42M 106945 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/10/1999	9/22/1999	409
42M 108386 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	7/12/1999	11/19/1999	680
42M 109609 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/3/1999	5/16/2000	56.7
42M 114746 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	5/9/2001	512
42M 30047258	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	3/29/2010	11/22/2010	272
42M 104422 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	8/8/2012	913
42M 30051296	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	8/8/2012	136
42M 30066962	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/5/2013	1/10/2014	272
42M 30072719	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	3/25/2015	8/12/2015	342

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1000500 Rosebud Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	87,003 acre-feet per year (AF/YR)
Source:	Yellowstone River
Acres of Irrigation:	34,525

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Rosebud Conservation District responded on December 15th, 2015 indicating that the 2015 10 Year Review was adequate. Information from the 2015 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 14 reserved water use authorizations and allocated 3,753.6 acre-feet (4.3 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 14 reserved water use authorizations and developed approximately 4.3 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process from the reserved source, (Yellowstone River).
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 4.3 % of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 14 Conservation District Records have been issued for a total of 3,753.6 acre-feet per year. DNRC records confirm the figures submitted by the Rosebud Conservation District.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 28 provisional permits have been issued for irrigation within Rosebud County for a total volume of 1,843 acre-feet per year¹.
 - 5 of the provisional permits issued were on the reserved source, (Yellowstone River) for a total volume of 287 acre-feet per year.
 - One additional provisional permit for a volume of 198.5 acre-feet per year from the Yellowstone River has remained pending since 2009.

¹Rosebud County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purpos	Source Name	Priority Date	Date Issued	Volume
42KJ 22160 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	SWEENEY CREEK	2/9/1979	8/1/1979	8
42KJ 23457 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	GRAVEYARD CREEK	6/14/1979	12/23/1979	90
42KJ 24490 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	GRAVEYARD CREEK	9/19/1979	2/22/1980	22.5
42A 24584 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	ROSEBUD CREEK	9/17/1979	5/23/1980	248
42KJ 26306 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	SWEENEY CREEK	1/2/1980	5/28/1980	35
42KJ 27709 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	YELLOWSTONE RIVER	5/28/1980	1/23/1981	2.5
42C 30781 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	OTTER CREEK	12/12/1980	7/13/1981	24
42KJ 32017 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	FROZE TO DEATH CREEK, WEST FORK	1/14/1981	7/30/1981	45
42KJ 32022 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	SWEENEY CREEK	2/3/1981	8/12/1981	15
42B 36456 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	BATTLE BUTTE CREEK	9/8/1981	1/18/1982	30
42C 36455 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	TONGUE RIVER	9/24/1981	4/13/1982	20
42KJ 39884 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	ARMELLS CREEK	1/11/1982	6/31/1982	200
42K 43618 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT HAY CREEK	3/31/1982	10/1/1982	32.8
42K 43619 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT HAY CREEK	3/31/1982	10/1/1982	40
42KJ 45120 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT MCGINNIS CREEK	4/19/1982	10/1/1982	60
42KJ 43616 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	YELLOWSTONE RIVER	4/1/1982	10/8/1982	29
42K 46946 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	SOUTH SUNDAY CREEK	5/4/1982	11/15/1982	41
42KJ 48805 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	SWEENEY CREEK	1/27/1983	6/16/1983	60
42KJ 54994 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	8/17/1984	84.6
42KJ 58951 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	8/1/1985	78
42KJ 58913 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	YELLOWSTONE RIVER	4/15/1985	8/26/1985	220.5
42A 59013 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT ROSEBUD CREEK	10/1/1985	12/26/1985	22.5
42A 59014 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT ROSEBUD CREEK	10/3/1985	1/10/1986	24
42KJ 54983 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	1/10/1986	34
42KJ 59018 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	ARMELLS CREEK	10/8/1985	1/15/1986	300
42KJ 58997 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	3/3/1986	184
42KJ 59057 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	YELLOWSTONE RIVER	1/23/1986	8/1/1986	<Null>
42KJ 63107 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT YELLOWSTONE RIVER	6/11/1986	10/14/1986	5
42KJ 63139 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	1/9/1987	17
42KJ 63222 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	YELLOWSTONE RIVER	6/22/1987	4/12/1988	35
42B 71389 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT HANGING WOMAN CREEK	3/29/1989	6/13/1989	13.5
42KJ 69974 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	ARMELLS CREEK, EAST FORK	11/4/1988	5/15/1990	200
42KJ 88807 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	8/31/1990	34
42KJ 80623 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	4/14/1992	432
42KJ 97552 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	1/24/1996	174
42KJ 101364 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	3/26/1997	171
42KJ 101376 00	PROVISIONAL PERMIT	ACTV	IRRIGATIO	UT EAST FORK ARMELLS CREEK	4/21/1997	9/9/1997	20
42KJ 3000653	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	4/24/2002	1100
42KJ 30009558	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	1/28/2004	152
42KJ 30026226	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	4/3/2007	94
42KJ 30041844	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	5/28/2008	908
42KJ 30048399	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	YELLOWSTONE RIVER	12/15/1978	10/20/2011	291

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 993500

Stillwater Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	16,755 acre-feet per year (AF/YR)
Source:	Stillwater River, Yellowstone River, Rosebud Creek, West Rosebud Creek
Acres of Irrigation:	5,290

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Stillwater Conservation District responded on November 10th, 2015 and indicated that the 2015 10 year report was adequate. Information from the 2015 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 10 reserved water use authorizations and allocated 1,214.8 acre-feet (7.25%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 10 reserved water use authorizations and developed approximately 7.25% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 7.25% of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 10 Conservation District Records have been issued for a total of 1,214.8 acre-feet per year. DNRC records indicate 11 Conservation District Records issued for a volume of 1,456.8 acre-feet per year. Additionally, one conservation district record remains pending since February 2nd, 2015.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 34 provisional permits have been issued for irrigation within Stillwater County for a total volume of 2,776.27 acre-feet per year¹.
 - 16 of the provisional permits issued were on a reserved source for a total volume of 1,743 acre-feet per year.

¹Stillwater County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
43QJ 22831 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	5/22/1979	1/28/1980	30
43QJ 24043 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/14/1979	5/23/1980	44
43QJ 25123 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	KEYSER CREEK	11/7/1979	10/22/1980	8
43C 27388 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	ROSEBUD CREEK	11/9/1979	4/16/1981	1
43C 27389 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	11/9/1979	4/16/1981	1
43C 31506 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	FISHTAIL CREEK	12/21/1979	8/12/1981	5
43C 31938 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	11/23/1979	9/11/1981	1.5
43C 30091 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	10/29/1980	9/11/1981	1.25
43C 31936 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WEST ROSEBUD CREEK	10/29/1980	9/11/1981	5
43QJ 34003 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	GROUNDWATER	4/8/1980	9/14/1981	49.33
43QJ 33711 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	1/12/1981	10/1/1981	351
43QJ 34206 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	5/14/1981	10/21/1981	1.5
43C 34803 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	7/13/1981	11/19/1981	30
43QJ 38382 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SURFACE WATER	12/2/1981	4/27/1982	240
43QJ 39377 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	1/4/1982	6/22/1982	8
43QJ 38708 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	11/12/1981	8/24/1982	1285
43C 42137 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	2/24/1982	8/24/1982	2
43C 47788 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	3/5/1982	12/17/1982	150
43C 48588 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	3/17/1982	1/20/1983	51.04
43C 45541 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	FIDDLER CREEK, EAST FORK	4/27/1982	6/16/1983	177.5
43QJ 58038 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	HUNTLEY CREEK	12/5/1984	6/24/1985	12
43QJ 60332 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	1/10/1986	44
43C 64439 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	STILLWATER RIVER	4/13/1987	2/12/1988	55.32
43C 68315 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	FISHTAIL CREEK	6/9/1988	12/14/1988	7.23
43C 78016 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WEST ROSEBUD CREEK	5/16/1991	10/2/1991	20
43C 79847 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	WEST ROSEBUD CREEK	12/15/1978	2/12/1992	15
43C 77704 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WEST ROSEBUD CREEK	6/6/1991	3/2/1992	20.7
43C 85415 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	BUTCHER CREEK	12/15/1978	5/20/1992	28
43C 78011 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	UT PITCHFORK CREEK	5/14/1991	8/24/1992	6.1
43QJ 100094 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	7/30/1997	18
43QJ 101409 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	9/30/1997	12.5
43C 106026 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WHITEBIRD CREEK	1/13/1999	9/9/1999	15
43QJ 109979 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	YELLOWSTONE RIVER	5/2/2000	11/27/2000	10.05
43QJ 109903 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	2/9/2000	6/4/2001	54
43C 30002813	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	STILLWATER RIVER	12/15/1978	8/12/2002	244
43QJ 115349 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WELL	7/23/2001	8/12/2002	8.5
43C 30007855	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/11/2003	5/17/2004	12.5
43QJ 30016204	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	8/1/2006	64
43C 30042001	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	WEST ROSEBUD CREEK	12/15/1978	7/1/2008	8.3
43C 30031211	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT STILLWATER RIVER	2/14/2008	3/28/2009	4
43C 30045428	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	STILLWATER RIVER, WEST FORK	12/15/1978	12/18/2009	584
43QJ 30067683	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	12/3/2013	197
43QJ 30068631	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	1/15/2014	5/6/2014	21.25
43QJ 30068634	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	1/15/2014	5/6/2014	87.5
43QJ 30104955	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	4/5/2016	242
43QJ 30105763	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	<Null>	203

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994800

Sweet Grass Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	46,245 acre-feet per year (AF/YR)
Source:	Yellowstone River, Boulder River, Upper Deer Creek, Lower Deer Creek & Bridger Creek
Acres of Irrigation:	15,313

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Sweet Grass Conservation District responded with additional information on December 4, 2015. Information from the response, the 2008 10 Year Review, and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 8 reserved water use authorizations and allocated 5,609.5 acre-feet (12.1%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 8 reserved water use authorizations and developed approximately 12.1% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water from reserved sources remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 2015 Annual Progress Report the District reports that 8 conservation district applications totaling 5,609.5 acre-feet per year, (12.1% of the allocated volume), have been perfected. DNRC records indicate that 9 conservation district applications totaling 5,733.5 acre-feet per year, (12.4% of the allocated volume), have been perfected. Additionally, one conservation district application for a volume of 364 acre-feet per year remains pending since August 28, 2015. One conservation district application is on an un-named tributary of the Yellowstone River, the rest were on the reserved source, (Yellowstone River).
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 18 provisional permits have been issued for irrigation within Sweet Grass County for a total volume of 3,462.5 acre-feet per year¹.
 - 1 of the provisional permits was from the reserved source, (Boulder River) for a total volume of 3 acre-feet per year.

¹Sweetgrass County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
43B 32381 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	OTTER CREEK	3/18/1981	4/16/1981	1.5
43BJ 33035 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	EAST CHIPPY CREEK	4/15/1981	8/27/1981	25
43B 34000 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	DRY CREEK	5/19/1981	9/11/1981	2.5
43QJ 32499 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	WEST WHITE BEAVER CREEK, WEST FORK	2/5/1981	10/1/1981	300
43BV 33998 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT SWEET GRASS CREEK	6/15/1981	10/21/1981	160
43BV 33999 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SWEET GRASS CREEK	6/15/1981	10/21/1981	250
43BJ 41458 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BOULDER RIVER	2/10/1982	8/24/1982	3
43B 54168 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	7/27/1984	2460
43B 56225 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	3/9/1985	458
43B 56226 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	3/9/1985	428
43B 59042 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	1/9/1986	711
43B 60445 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	OTTER CREEK	11/13/1985	1/26/1987	500
43B 67217 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SWAMP CREEK, SOUTH FORK	4/13/1988	10/19/1989	498.7
43BJ 75495 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	8/20/1990	12/19/1990	600
43QJ 79843 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	5/12/1992	218
43B 79178 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	JARRETT CREEK	9/18/1991	10/7/1992	148
40A 80862 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TONY CREEK	5/4/1992	1/11/1994	50
43B 90976 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	9/13/1994	3/13/1995	12.4
43QJ 107184 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	HUMP CREEK	8/3/1999	8/3/2000	2.5
43BJ 113870 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	1/2/2001	8/13/2001	233.9
43B 30009402	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	1/23/2004	9/19/2005	464.8
43B 30022111	PROVISIONAL PERMIT	ACTV	IRRIGATION	OTTER CREEK	3/8/2006	8/21/2007	10.2
43B 30020096	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	4/14/2008	394
43BV 30009794	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT BASIN CREEK	3/5/2004	12/15/2008	200
43B 30030757	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	12/15/1978	3/18/2009	127.5
43B 30045699	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	6/12/2009	124
43B 30062948	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	11/8/2013	813
43B 30105980	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	YELLOWSTONE RIVER	12/15/1978	<Null>	364
43QJ 30103019	PROVISIONAL PERMIT	PEND	IRRIGATION	GROUNDWATER	9/14/2015	<Null>	399.33

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1000300 Treasure Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	18,361 acre-feet per year (AF/YR)
Source:	Yellowstone River & Big Horn River
Acres of Irrigation:	7,035

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Treasure Conservation District responded on December 30th, 2015 indicating that the 2015 10 Year Review was adequate. Information from the 2015 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response. (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 6 reserved water use authorizations and allocated 2,077 acre-feet (11.3 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 6 reserved water use authorizations and developed approximately 11.3 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process in all but that area drained by the Big Horn River which is closed to new appropriations through the Crow – Montana Compact Closure. Because the Yellowstone Final Order that established this reservation pre-dates the compact, the DNRC determines that all projects as approved in the Final Order may be processed.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 11.3% of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 6 Conservation District Records have been issued for a total of 2,077 acre-feet per year. DNRC records confirm the figures reported by the Conservation District.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 5 provisional permits have been issued for irrigation within Treasure County for a total volume of 1,588 acre-feet per year¹.
 - 2 of the provisional permits issued were on the reserved source, (Yellowstone River) for a total volume of 1,515 acre-feet per year.

¹Treasure County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number	WR Type	Stat	Purpos	Source Name	Priority Date	Date Issued	Volume
42KJ 32151 00	PROVISIONAL PERMIT	ACTV	IRRIGATIC	WEST BEAR CREEK	5/5/1980	7/13/1981	45
42KJ 33749 00	PROVISIONAL PERMIT	ACTV	IRRIGATIC	SARPY CREEK	5/26/1981	12/15/1981	27
42KJ 32600 00	PROVISIONAL PERMIT	ACTV	IRRIGATIC	YELLOWSTONE RIVER	3/31/1981	3/2/1982	1500
42KJ 29084 00	PROVISIONAL PERMIT	ACTV	IRRIGATIC	YELLOWSTONE RIVER	9/5/1980	6/22/1982	15
42KJ 56630 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIC	YELLOWSTONE RIVER	12/15/1978	11/4/1983	1500
42KJ 67212 00	PROVISIONAL PERMIT	ACTV	IRRIGATIC	BOX ELDER CREEK	3/31/1988	11/15/1988	1
43P 30026407	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIC	BIGHORN RIVER	7/1/1985	3/20/2007	79
42KJ 30031335	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIC	YELLOWSTONE RIVER	12/15/1978	3/9/2009	113
42KJ 30031332	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIC	YELLOWSTONE RIVER	12/15/1978	3/10/2009	88
43P 30065202	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIC	BIGHORN RIVER	12/15/1978	2/19/2013	62
43P 30066910	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIC	BIGHORN RIVER	12/15/1978	1/31/2014	235

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994900 Yellowstone Conservation District

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	57,963 acre-feet per year (AF/YR)
Source:	Yellowstone River & tributaries
Acres of Irrigation:	24,835

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Yellowstone Conservation district. Information from the 2008 10 Year Review and the 2015 Annual Progress Report is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 15 reserved water use authorizations and allocated 5,998.7 acre-feet (10.3 %) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 15 reserved water use authorizations and developed approximately 10.3 % of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process in most of the county. Within Yellowstone County the Pryor Creek drainage and a small area near the mouth of the Big Horn River are closed to new appropriations through the Crow – Montana Compact Closure. Because the Yellowstone Final Order establishing the reservation pre-dates this closure, the DNRC determines that all projects approved through the Final Order may be processed.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The reservant reports that 10.3% of the allocated volume has been perfected. In the 2015 Annual Progress Report the District states that 15 Conservation District Records have been issued for a total of 5,998.7 acre-feet per year. DNRC records confirm the Districts reporting.
5. Irrigation Rights issued post December 15, 1978:
In the 38 years since the reservation was issued 86 provisional permits have been issued for irrigation within Yellowstone County for a total volume of 10,502.37 acre-feet per year¹.
 - 4 of the provisional permits issued were on the reserved source, (Yellowstone River) for a total volume of 1,252 acre-feet per year.

¹Yellowstone County Irrigation Rights

- Issued Post December 15, 1978 (date of issue, Yellowstone Final Order)

WR Number *	WR Type	Status	Purposes	Source Name	Priority Date	Date Issued	Volume
43Q 22233 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	SPRING, UT CROOKED CREEK	3/26/1979	8/9/1979	0.6
43Q 22060 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	3/2/1979	9/21/1979	488
43Q 22234 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	UT CROOKED CREEK	3/27/1979	9/21/1979	4.32
43Q 23792 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TWELVEMILE CREEK	7/6/1979	12/23/1979	60
43Q 23126 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CANYON CREEK	6/12/1979	3/21/1980	11
43Q 25552 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	12/4/1979	11/14/1980	40
43Q 27983 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	BUFFALO SPRING CREEK	3/31/1980	12/18/1980	243.15
43Q 27984 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BUFFALO SPRING CREEK	3/31/1980	12/18/1980	80
43E 31065 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/8/1980	4/16/1981	269
43E 31066 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PRYOR CREEK	9/8/1980	6/17/1981	180
43Q 31718 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BLUE CREEK	10/14/1980	6/17/1981	0.5
43Q 29274 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	9/16/1980	7/30/1981	8
43Q 33511 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CROOKED CREEK	5/4/1981	8/27/1981	36
43Q 33040 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	UT YELLOWSTONE RIVER	3/9/1981	9/11/1981	9.05
43Q 33708 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	5/28/1981	11/6/1981	120
43Q 34801 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CROOKED CREEK	7/10/1981	11/19/1981	28
43Q 34645 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	LOST BOY CREEK	7/16/1981	1/18/1982	6
43Q 32726 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT YELLOWSTONE RIVER	12/22/1980	2/17/1982	98
43QJ 39850 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	12/16/1981	5/10/1982	30
43Q 34209 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	YELLOWSTONE RIVER	6/19/1981	6/22/1982	4
43Q 38717 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	TWELVEMILE CREEK	10/6/1981	6/22/1982	3
43Q 41758 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	1/12/1982	7/15/1982	51.3
43Q 39327 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	10/23/1981	8/13/1982	43
43Q 42699 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	DANFORD DRAIN	3/12/1982	8/24/1982	32
43Q 47799 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT YELLOWSTONE RIVER	3/9/1982	12/17/1982	7
43Q 49353 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CANYON CREEK	4/9/1982	2/3/1983	4.75
43Q 49354 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	BURNT COULEE	4/13/1982	2/16/1983	23
43Q 49355 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	UT BURNT COULEE	4/13/1982	2/16/1983	28
43Q 49356 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	UT CROOKED CREEK	4/15/1982	2/16/1983	31
43Q 49347 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BUFFALO CREEK	9/21/1982	2/28/1983	69
43E 49031 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PRYOR CREEK	4/5/1982	3/28/1983	74.36
43Q 48204 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BUFFALO CREEK	3/30/1982	4/19/1983	72
43Q 48206 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT BUFFALO CREEK	3/30/1982	4/19/1983	35
43Q 49351 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	3/9/1982	6/13/1983	2765
43Q 49352 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	3/9/1982	6/13/1983	40
43E 52248 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT INDIAN CREEK	4/15/1983	9/12/1983	13.25
43E 52249 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	INDIAN CREEK	4/15/1983	9/12/1983	2.13
43Q 49371 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	7/1/1982	10/26/1983	75
43Q 54013 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/31/1983	11/9/1983	7.74
43Q 54054 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BLUE CREEK	9/30/1983	1/11/1984	5
43Q 54055 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT CLOSED BASIN	10/4/1983	1/11/1984	98
43Q 54066 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT FIVEMILE CREEK	10/17/1983	1/11/1984	0.75
43Q 54110 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/25/1983	3/8/1984	75
43Q 54146 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	RAZOR CREEK	12/15/1978	7/27/1984	420
43E 54176 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	PRYOR CREEK	4/5/1984	10/17/1984	50
43Q 56106 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/13/1984	1/10/1985	80
43Q 54174 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	RAZOR CREEK	4/2/1984	4/26/1985	60
43Q 57932 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	3/27/1985	6/12/1985	18
43Q 32991 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	FLY CREEK	2/13/1981	10/22/1985	510
43Q 60352 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT TWELVEMILE CREEK	8/1/1985	1/15/1986	5.4
43Q 58000 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	5/29/1985	2/28/1986	3.27
43Q 64417 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CROOKED CREEK	2/24/1987	9/3/1987	3.8
43Q 64414 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	2/19/1987	9/17/1987	24
43Q 67183 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	ARROW CREEK	2/5/1988	5/6/1988	5
43Q 67202 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	3/16/1988	5/26/1988	145.61
43Q 70854 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	CANYON CREEK	6/5/1989	8/17/1989	24
43QJ 72887 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT YELLOWSTONE RIVER	12/1/1989	3/27/1990	1633.5
43Q 74767 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UNNAMED TRIBUTARY OFUT	7/27/1990	12/7/1990	9.2

Appendix E

Lower Missouri Conservation District Reservations

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449300 Blaine County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	10,936 acre-feet per year from three reservoirs that will store up to 18,934 acre-feet.
Source:	Battle Creek, Link Coulee, and an unnamed tributary of Black Coulee
Acres of Irrigation:	6,141 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Blaine County Conservation District. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation continues to exist. In most of the county, including the areas where the reserved water sources are located, water is unavailable for appropriation through the DNRC Provisional Permitting process due to the Fort Belknap – Montana compact closure. While the Lower Missouri Final Order that established this reservation pre-dates the compact, it states that the reservation is subject to all prior Indian reserved water rights of the Fort Belknap tribes.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. The Fort Belknap – Montana compact closure contains language that prohibits the DNRC from processing or granting an application for an appropriation of water within the Milk River watershed. The Blaine County Conservation District reservation includes three projects within this drainage. Because these three projects were approved through the 1994 Final Order which pre-dates the closure the DNRC maintains that they could proceed.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449600 Carter County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1989
Volume:	4,684 acre-feet per year (AF/YR)
Source:	Little Missouri & tributaries, Little Beaver & tributaries, Boxelder Creek and tributaries, & one groundwater well
Acres of Irrigation:	2,367 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

The Carter County Conservation District responded that the 2014 10 year report was adequate. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. No applications have been received for use of the reserved water. Water from the reserved sources remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected.

Since the date of the reservation, (December 30, 1994), one provisional permit for irrigation has been issued in the Little Missouri drainage for 94 acre feet and one provisional permit for irrigation is pending for 267 acre-feet*.

**** Post December 30, 1994 irrigation from the Little Missouri River Basin in Carter County:***

WR Number *	WR Type	Status	Purposes	Source Name	Date Issued	Volume
39E 30041611	PROVISIONAL PERMIT	ACTV	IRRIGATION	FOSTER DRAW	1/12/2010	94.3
39F 30069481	PROVISIONAL PERMIT	PEND	IRRIGATION	TIE CREEK	<Null>	267

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449700 Daniels County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	3,047 acre-feet per year
Source:	Various surface and groundwater sources within the district
Acres of Irrigation:	1,439 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Daniels County Conservation District. The following is an abbreviated compilation of the specific criteria addressed through the 2014 report followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. No applications have been received for use of the reserved water. Water from the reserved sources remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. Since the date of Issue for the Lower Missouri River Reservations, (December 30, 1994), one provisional permit for 178 acre-feet of water has been issued within the district from a reserved source. It does not appear that any of the irrigation projects proposed in the application have been completed using reserved water.

**** Post December 30, 1994 irrigation from the Poplar River Basin in Daniels County:***

WR Number *	WR Type	Status	Purposes	Source Name	Date Issued	Volume
40Q 109592 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	POPLAR RIVER	6/9/2000	178

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449400 Liberty County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	122 acre-feet per year
Source:	Lost Coulee
Acres of Irrigation:	50 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

The Liberty County Conservation District responded with additional information on December 16th, 2015. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review and the District response followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation continues to exist. Lost Coulee, (the reserved source), is located in the Milk River watershed which is closed to new appropriations of water through the Fort Belknap – Montana compact closure. While the Lower Missouri Final Order pre-dates and can thus proceed, the compact states that the reservation is subject to all prior Indian reserved water rights of the Fort Belknap tribes.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. The Fort Belknap – Montana compact closure contains language that prohibits the DNRC from processing or granting an application for an appropriation of water within the Milk River watershed. The Liberty County Conservation District reservation includes one project within this drainage. Because this project was approved through the 1994 Final Order which pre-dates the closure the DNRC maintains that it could proceed. The greater portion of the Liberty County Conservation District is located outside the Fort Belknap – Montana compact closure. While it is common for the conservation districts to submit a change that seeks to develop an alternate source the Liberty County Conservation District also has reserved water from the Upper Missouri Final Order issued on July 1, 1992. The

Upper Missouri Water Reservation serves all acres within the Liberty County Conservation District outside the closure. In the 24 years since the Final Order establishing the Upper Missouri River Water Reservation was issued none of that reservation has been perfected.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449800 Little Beaver Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1989
Volume:	1,548 acre-feet per year
Source:	Numerous sources
Acres of Irrigation:	1,030 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

The Little Beaver Conservation District responded on November 3, 2015. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review and the submitted response to the DNRC questionnaire followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. No applications have been received for use of the reserved water. Water from the reserved sources remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. It does not appear that any of the irrigation projects proposed in the application have been completed using reserved water. Since the date the Lower Missouri Water Reservation was issued, (December 30, 1994), no provisional permits have been issued within the Little Beaver Conservation District on a source tributary to the Little Missouri River.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449900 McCone County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	14,299 acre-feet per year
Source:	Missouri River
Acres of Irrigation:	6,122 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

A response was received from the McCone County Conservation District on December 28, 2015. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review and the District response followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 8 reserved water use authorizations and allocated 3,793 acre-feet (26%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 7 reserved water use authorizations and developed approximately 26% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water from the reserved source remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In their response to the DNRC request for information the District reports that 3,793.3 acre-feet or 26% of the allocated volume has been perfected.

DNRC records confirm the perfected volume reported by the district. DNRC records indicate that one additional conservation district record for 2,005 AF has remained pending since 2010. No provisional permits have been issued in McCone County for irrigation since the reserved water became available on December 30, 1994*.

*** Post December 30, 1994 irrigation from the Missouri River Basin in McCone County:**

WR Number *	WR Type	Status	Purposes	Source Name	Date Issued	Volume
40S 102763 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	9/17/1998	980
40S 30002538	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/30/2002	712
40S 30006333	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/10/2003	182
40S 30044022	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	3/11/2009	262.5
40S 30044048	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/2/2009	571
40S 30050269	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	4/6/2011	966
40S 30050326	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	11/9/2011	119.8
40S 30048141	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	MISSOURI RIVER	<Null>	2005.2
						5798.5

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8450000 Richland County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	25,349 acre-feet per year
Source:	Missouri River
Acres of Irrigation:	11,141 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

Richland County responded that the 2014 Ten Year Review was adequate. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 23 reserved water use authorizations and allocated 9,392 acre-feet (37.05%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 23 reserved water use authorizations and developed approximately 37.05% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water from the reserved source remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In their response the District reports that 9,392 acre-feet or 37.05% of the allocated volume has been perfected. DNRC records indicate that 10,299.95 acre feet or 40.63% of the reserved volume has been perfected. In the 22 years since the reservation was issued four provisional permits were issued from the Missouri River, (reserved source), and one provisional permit was issued from a non-reserved source for a total of 1,862.9 acre-feet of water. One Conservation District record remain pending for a total of 182 acre-feet of water*.

*** Post December 30, 1994 irrigation from the Missouri River Basin in Richland County:**

WR Number *	WR Type	Status	Purposes	Source Name	Date Issued	Volume
40S 91841 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	1/31/1995	139.5
40S 96357 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	6/27/1996	795
40S 99060 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	1/22/1997	309.7
40S 101055 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	2/13/1997	560
40S 101074 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	8/6/1997	927
40S 97742 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	10/28/1998	542.7
40S 104421 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/23/1998	590
40S 104484 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/30/1998	364
40S 106912 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/30/1998	150
40S 114723 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/30/1998	340
40S 30005493	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	2/11/1999	768
40S 106990 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/14/1999	636
40S 104510 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/7/2000	145
40S 111301 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/7/2000	302
40S 114722 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/7/2000	203
40S 111350 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT HARDCRABBLE CREEK	8/22/2000	76
40S 114654 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/13/2000	451
40S 111449 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/14/2000	408
40S 116904 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	8/23/2001	68
40S 30001844	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/30/2002	364
40S 30006748	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/29/2003	125.95
40S 30012791	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	4/22/2005	413.6
40S 30027588	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	4/22/2005	272.8
40S 30027595	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	4/22/2005	283.6
40S 30024907	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	5/17/2007	272
40S 30025552	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	5/18/2007	228
40S 30041682	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	9/25/2008	802
40S 30043641	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	11/13/2008	60
40S 30063091	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	11/8/2012	92
40S 30072073	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/13/2015	224
40S 114741 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	11/4/2015	312.5
40S 30104519	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	11/4/2015	242.5
40S 30104520	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	11/4/2015	75
40S 30104412	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	1/14/2016	161
40S 30022265	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI	<Null>	459
40S 30062765	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	MISSOURI RIVER		182
						12344.85

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8450100 Roosevelt County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	73,115 acre-feet per year (AF/YR)
Source:	Missouri River
Acres of Irrigation:	24,979 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

The Roosevelt County Conservation District responded that the 2014 10 year report was adequate. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 22 reserved water use authorizations and allocated 9,475.6 acre-feet (13%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 22 reserved water use authorizations and developed approximately 13% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water from the reserved source remains available for appropriation from the reserved source through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In their response the District reports that 9,475.6 acre-feet or 13% of the allocated volume has been perfected.
DNRC records indicate that 12,431.35 acre-feet or 17% of the reserved volume has been perfected. In the 22 years since the reservation was issued twelve provisional permits were issued from the Missouri River, (reserved source), and nine provisional permits were issued from a non-reserved source for a total of 5,874.9 acre-feet of water*.

*** Post December 30, 1994 irrigation from the Missouri River Basin in Roosevelt County:**

WR Number	WR Type	Status	Purposes	Source Name	Date Issued	Volume
40Q 99080 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/5/1997	498
40S 102771 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	10/22/1997	1420
40S 101092 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	3/31/1998	636
40S 101076 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	6/4/1998	1272
40S 103653 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	9/17/1998	147
40S 103671 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	1/7/1999	360
40S 106984 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	5/4/1999	284
40R 104469 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/4/1999	699
40S 106983 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/14/1999	1114
40S 106915 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/28/1999	520
40S 106914 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/29/1999	804
40S 106914 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/29/1999	804
40S 106914 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/29/1999	804
40R 106951 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/27/1999	413.1
40S 109530 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	5/2/2000	282
40S 109530 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	5/2/2000	282
40S 109530 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	5/2/2000	282
40S 109530 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	5/2/2000	282
40S 109529 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	5/5/2000	<Null>
40S 109529 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	5/5/2000	<Null>
40S 109529 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	5/5/2000	<Null>
40S 109529 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	5/5/2000	<Null>
40S 74095 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	5/8/2000	130
40S 74095 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	5/8/2000	130
40S 111325 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/15/2001	25
40S 111429 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	4/10/2001	628.1
40S 111430 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	4/10/2001	676.5
40S 30002059	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/4/2001	569
40S 30002059	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	12/4/2001	569
40S 30003106	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	8/6/2002	24
40S 30000919	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/27/2002	350
40S 30004263	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	8/28/2002	330
40S 30004260	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	11/4/2002	421.25
40S 30006005	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	3/4/2003	240
40S 30010979	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/11/2004	536
40S 30013023	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/11/2005	400
40S 30015443	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	6/7/2005	20
40S 30012545	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/24/2005	324
40S 106952 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/4/2005	600
40S 30014234	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/4/2005	300
40S 30030881	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	6/6/2008	<Null>
40S 30030883	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	6/13/2008	<Null>
40S 30031187	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	9/16/2008	168.7
40S 30031187	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	9/16/2008	168.7
40S 30043999	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	2/3/2009	159.6
40S 30044041	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	4/28/2009	176.9
40S 30069082	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	9/1/2015	60
40S 30072269	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	12/8/2015	396.4

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8450200 Sheridan County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	15,479 acre-feet per year
Source:	Groundwater

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response was received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Sheridan County Conservation District. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 21 reserved water use authorizations and allocated 5,648 acre-feet (36.49%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 21 reserved water use authorizations and developed 36.49% of their reservation. The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water from the reserved source remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In their response the District reports that 5,648 acre-feet or 36.49% of the allocated volume has been perfected. DNRC records indicate that 4,840 acre-feet or 31.27% of the reserved volume has been perfected. Three Conservation District Records remain pending for a total of 808 acres feet or an additional 5.2% of the allocated volume. Assuming the Conservation District Records are granted, DNRC records and Sheridan County Conservation District records will show an equal amount of perfection. In the 22 years since the reservation was issued twelve provisional permits were issued which appropriate groundwater, (reserved source), and four provisional permit was issued from a non-reserved source for a total of 3,348.23 acre-feet of water*.

*** Post December 30, 1994 irrigation in Sheridan County:**

WR Number *	WR Type	Status	Purposes	Source Name	Date Issued	Volume
40R 66276 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/28/1995	387
40R 101061 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	5/14/1996	380
40R 101056 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	6/11/1996	268
40R 101058 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	6/11/1996	268
40R 101059 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	6/11/1996	200
40R 101057 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	12/10/1996	536
40R 97767 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	9/10/1997	268
40R 104420 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	4/14/1998	268
40R 104419 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	4/14/1998	268
40R 104468 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	6/9/1998	264
40R 114733 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	5/12/1999	<Null>
40R 106957 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	5/28/1999	15
40R 109562 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	6/8/1999	268
40R 74097 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/8/1999	200
40R 66271 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/26/2001	246.18
40R 66271 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/26/2001	246.18
40R 71221 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/26/2001	276
40R 71221 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/26/2001	276
40R 114692 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	5/14/2002	268
40R 114696 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	5/14/2002	268
40R 66295 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/6/2003	294
40R 66295 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/6/2003	294
40R 86182 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/6/2003	358.5
40R 86182 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/6/2003	358.5
40R 114698 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	6/8/2004	270
40R 30021061	PROVISIONAL PERMIT	ACTV	IRRIGATION	MCCOY CREEK	1/19/2007	34
40R 30021061	PROVISIONAL PERMIT	ACTV	IRRIGATION	MCCOY CREEK	1/19/2007	34
40R 30025565	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIG MUDDY CREEK	9/14/2007	260
40R 30025565	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIG MUDDY CREEK	9/14/2007	260
40R 31905 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	12/4/2008	195.87
40R 114695 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	7/14/2009	268
40R 30046195	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	7/14/2009	268
40R 30050636	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	GROUNDWATER	12/13/2011	510
40R 114699 00	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	GROUNDWATER	<Null>	270
40R 114694 00	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	GROUNDWATER	<Null>	268
40R 30048568	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	GROUNDWATER	<Null>	270

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8449500 Valley County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1985
Volume:	7,668 acre-feet per year
Source:	Missouri River, Milk River, Groundwater
Acres of Irrigation:	3,249 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Valley County Conservation District. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation continues to exist for that portion of the reservation within the Milk River drainage. Water is unavailable for appropriation within the Milk River drainage through the DNRC provisional permitting process due to the Fort Belknap – Montana compact closure. Outside the Milk River drainage the need for the reservation appears questionable as water from the reserved sources remains available through provisional permits.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. During this same 22 year time period there were two provisional permits issued for groundwater and one provisional permit issued for water from the Missouri River, (both reserved sources), for a total of 1,156 acre-feet per year*. It does not appear that any of the irrigation projects proposed in the application have been completed using reserved water.

The Fort Belknap – Montana compact closure contains language that prohibits the DNRC from processing or granting an application for an appropriation of water within the Milk River watershed. The Valley County Conservation District reservation includes five projects three of which are within the Milk River drainage. Because these three projects were approved through the 1994 Final Order which pre-dates the closure the DNRC maintains that they could proceed.

*** Post December 30, 1994 irrigation in Valley County below Fort Peck Dam, (reserved sources only):**

WR_NUMBER	WRTE_DESCR	STATUS	PRIORITY DATE	DATE ISSUED	SOURCE_NAME	PURPOSE	MAX_VOL
40S 94600 00	PROVISIONAL PERMIT	ACTV	6/5/1995	6/27/1996	MISSOURI RIVER	IRRIGATION	400
40O 99084 00	PROVISIONAL PERMIT	ACTV	11/18/1996	6/3/1997	GROUNDWATER	IRRIGATION	378
40O 99085 00	PROVISIONAL PERMIT	ACTV	11/18/1996	6/9/1997	GROUNDWATER	IRRIGATION	378

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 8450300 Wibaux County Conservation District

Reservation Description:

Final Order:	Lower Missouri River Basin, Issued December 30, 1994
Priority Date:	July 1, 1989
Volume:	1,509 acre-feet per year
Source:	Beaver Creek & named tributaries
Acres of Irrigation:	1,006 acres

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

Wibaux County Conservation District responded that the 2014 Ten Year Review was adequate. The following is an abbreviated compilation of the specific criteria addressed through the 2014 Ten Year Review followed by DNRC review & recommendations.

District Response, (2014 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water from the reserved source remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. The original application received by the DNRC on June 27th, 1991 states that all reserved water will be put to use by the end of calendar year 2020. In the 22 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. It does not appear that any of the irrigation projects proposed in the application have been completed using reserved water.

Appendix F

Upper Missouri Conservation District Reservations

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7189400 Broadwater Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	606 acre-feet per year (AF/YR)
Flow:	4.4 cubic feet per second (CFS)
Source:	Missouri River
Acres of Irrigation:	330 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Broadwater Conservation District.

DNRC Review:

The Broadwater Conservation District is located entirely within the legislatively mandated Upper Missouri River Basin Closure. This area is closed to the issuance of any new Provisional Permits. As issued in the July 1, 1992 Final Order all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Because the district is unable to use their reservation they have not submitted any 10 year reviews.

To date no water has been appropriated through this reservation.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7189300 Cascade County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	9,314 acre-feet per year (AF/YR)
Source:	Missouri River, Sun River, Smith River, Hound Creek, Belt Creek
Acres of Irrigation:	3,910 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Cascade County Conservation District. Information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. In the majority of the district the need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. In most of the county permit applications are precluded due to the Upper Missouri Legislative Closure. Outside the closure water remains available through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation none of the total reserved volume has been perfected.

All water reservations in the Upper Missouri River Basin were conditioned such that no water could be appropriated for any use in an area where a permit application was precluded. The Upper Missouri Legislative Closure established on April 16, 1993 precludes submission of permit applications in all waters up-stream of Morony Dam on the Missouri River and thus nullifies the “force and effect” of the reservation above the dam. Between the date of the Final Order establishing water reservations in the Upper Missouri River (July 1, 1992) and the Upper Missouri Legislative Closure (April 16, 1993), no “development plans” were submitted or approved that would allow development of the Conservation District water reservations within the closed area. This leaves the lower 9.5 miles of the Missouri River and all of the Belt Creek drainage open for appropriation through the Cascade County Conservation District’s

reservation. Additionally, Muddy Creek is open to new appropriations of water if it can be shown that the proposed appropriation will assist in bank stabilization.

5. Irrigation Rights issued post July 1, 1992:

In the 24 years since the reservation was issued sixteen provisional permits have been issued within Cascade County for a total volume of 2,340.5 acre-feet per year. Two provisional permits remain pending for an additional 521 acre-feet per year¹.

- a. Only one permit was issued from the reserved source, (Missouri River), prior to the Upper Missouri River Closure, (April 16, 1993), and thus could have been issued as a Conservation District water right.
- b. Two active permits were issued on sources that remain open to appropriation by the Conservation District.
- c. One provisional permit is pending on a source that remains open to appropriation by the Conservation District.

¹Cascade County Irrigation Rights

- Priority Date Post July 1, 1985 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
41QJ 78511 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	6/25/1991	1/27/1993	79
41QJ 77323 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	3/27/1991	6/9/1993	117
41QJ 90359 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	7/19/1994	2/23/1995	528
41QJ 94957 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/29/1995	6/6/1996	21.25
41Q 96838 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	3/15/1996	6/6/1996	5
41QJ 94962 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	12/5/1995	9/5/1996	30.3
41QJ 98972 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/19/1996	6/30/1997	3.75
41K 104565 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT MILL COULEE	7/23/1998	10/27/1998	2
41QJ 116315 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	6/29/2001	6/26/2002	153
41QJ 115089 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/26/2001	8/13/2002	33.1
41K 30009856	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT MUDDY CREEK	3/12/2004	4/26/2005	139.2
41QJ 68190 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	GROUNDWATER	8/3/1988	10/31/2014	344.4
41Q 30069048	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	BELT CREEK	3/11/2014	1/13/2015	4.9
41QJ 30070657	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/23/2014	8/31/2015	202.1
41Q 30026974	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	3/5/2007	11/5/2015	564.6
41Q 30068688	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	2/23/2015	11/5/2015	112.9
41K 64755 00	PROVISIONAL PERMIT	PEND	IRRIGATION	UT MUDDY CREEK	11/6/1986	<Null>	121
41K 72955 00	PROVISIONAL PERMIT	PEND	IRRIGATION	UT SUN RIVER	10/17/1989	<Null>	400

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7230700 Choteau County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	33,123 acre-feet per year (AF/YR)
Source:	Missouri River, Shonkin Creek, Highwood Creek, Big Sag Spring, Marias River, Teton River
Acres of Irrigation:	2,314 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Choteau County Conservation District. Information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 2 reserved water use authorizations and allocated 2,481 acre-feet (7.49%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 2 reserved water use authorizations and developed approximately 7.49% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Part of the district has been closed to new appropriations of water through the Chippewa Cree – Montana Compact closure and the Teton River Basin Legislative Closure. Outside the closures water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 2012 Ten Rear Review the District reports that 2,481 acre-feet per year or 7.49% of the allocated volume has been perfected.
 - Both Conservation District rights issued are on a reserved source.
 - Irrigation Rights issued post July 1, 1992:
 - In the 24 years since the reservation was issued six provisional permits have been issued for irrigation within Choteau County for a total volume of 3,513.44 acre-feet per year¹.
 - All of the provisional permits issued were on a reserved source.

¹Choteau County Irrigation Rights

- Priority Date Post July 1, 1895 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Status	Purposes	Source Name	Priority Da	Date Issu	Volum
41Q 98645 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/1/1985	12/13/1996	2301
41P 105757 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MARIAS RIVER	9/3/1999	1/13/2000	139.28
41Q 30000084	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	12/21/2001	7/3/2002	250
41Q 30005302	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MISSOURI RIVER	7/1/1985	2/10/2003	180
41T 30003317	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	MISSOURI RIVER	8/27/2002	5/23/2003	79.58
41P 105759 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MARIAS RIVER	9/22/1999	5/11/2004	2622.18
41T 30067115	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	8/20/2013	7/18/2014	278.9
41Q 30067331	PROVISIONAL PERMIT	ACTV	IRRIGATION	MISSOURI RIVER	9/12/2013	9/2/2014	143.5

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7319900 Fergus County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	3,914 acre-feet per year (AF/YR)
Source:	Missouri River, Wolverine Creek, Lincoln Ditch, E Fork Big Spring Creek, Little Casino Creek, Olsen Creek UT of Olsen Creek, UT Ross Fork Creek, Warm Springs
Acres of Irrigation:	2,314 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Fergus County Conservation District responded on December 21, 2015. The District's response with information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 1 reserved water use authorizations and allocated 237 acre-feet (6.06%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 1 reserved water use authorizations and developed approximately 6.06% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In their response the District reports that 237 acre-feet per year (6.06%) of the allocated volume has been perfected. Another 64 acre-feet per year or 1.6% of the allocated volume remains pending.
 - All Conservation District rights, (both issued and pending), are on a reserved source.
 - Irrigation Rights issued post July 1, 1992:

In the 24 years since the reservation was issued seven provisional permits have been issued within Fergus County for a total volume of 2,013.8 acre-feet per year. Another provisional permit remains pending for an additional 151.4 acre-feet per year¹.

- None of the provisional permits issued were on a reserved source.

¹Fergus County Irrigation Rights

- Priority Date Post July 1, 1895 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Status	Purposes	Source Name	Priority Date	Date Issued	Volume
41S 94925 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	9/14/1995	12/29/1995	295
41T 99009 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	10/1/1996	5/16/1997	400
41T 103275 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	11/7/1997	7/7/1998	400
40B 104528 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	MCDONALD CREEK, SOUTH FORK	5/12/1998	8/28/1998	49
41S 107345 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIG SPRING CREEK	6/8/1999	8/31/1999	18.8
41S 108524 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	JUDITH RIVER	9/14/1999	1/11/2000	695
41S 30005904	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	WOLVERINE CREEK	7/1/1985	3/12/2003	237
41T 30041734	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/8/2008	5/15/2009	125
41S 30103576	CONSERVATION DISTRICT RECORD	PEND	IRRIGATION	BIG SPRING CREEK, EAST FORK	7/1/1985	<Null>	64
40B 30070712	PROVISIONAL PERMIT	PEND	IRRIGATION	DURFEE CREEK	9/11/2014	<Null>	151.4

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7258700 Gallatin County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	2,006 acre-feet per year (AF/YR)
Flow:	20.34 cubic feet per second (CFS)
Source:	Groundwater, (wells), & Jefferson River
Acres of Irrigation:	1,764 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Gallatin County Conservation District.

DNRC Review:

The Gallatin County Conservation District is located entirely within the legislatively mandated Upper Missouri River Basin Closure. This area is closed to the issuance of any new Provisional Permits. As issued in the July 1, 1992 Final Order all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Because the district is unable to use their reservation they have not submitted any 10 year reviews.

To date no water has been appropriated through this reservation.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7168800 Glacier County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	1,271 acre-feet per year (AF/YR)
Source:	Cut Bank Creek, Whitetail Creek
Acres of Irrigation:	703 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Glacier County Conservation District responded with additional information on December 24, 2015. The District's response with information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. In most of the county, including the areas where the reserved water sources are located, permit applications are precluded due to the Blackfeet – Montana Compact Closure and the Fort Belknap – Montana Compact Closure. Outside the closures water remains available through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation none of the total reserved volume has been perfected.

All water reservations in the Upper Missouri River Basin were conditioned such that no water could be appropriated for any use in an area where a permit application was precluded. Two closures are in effect within the Glacier County Conservation District that precludes submission of permit applications. In 2001 the State of Montana and the Fort Belknap tribes entered into a compact whereby the entire Milk River drainage was closed to any new permit applications. In 2009 the State of Montana and the Blackfeet Tribe entered into a compact whereby the entire Blackfeet reservation, (including boarder streams), was closed to any new permit applications. Both of the sources approved through the Glacier County Water Reservation lie within the area closed to any new appropriations. Between the date of the Final Order establishing water reservations in the Upper Missouri River (July 1, 1992) and the compact closures cited above, no

“development plans” were submitted or approved that would allow development of the Conservation District water reservations within the closed areas. The condition clearly nullifies the force and effect of this reservation within the majority of the Glacier County Conservation District and effectively precludes future development of this water reservation within those areas identified for development through the original application. Outside the closures there are no perennial streams that would be open for development.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7189200 Jefferson Valley Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	14,515 acre-feet per year (AF/YR)
Flow:	109.9 cubic feet per second (CFS)
Source:	Groundwater, (wells), & Jefferson River
Acres of Irrigation:	5,905 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Jefferson Valley Conservation District.

DNRC Review:

The Jefferson Valley Conservation District is located entirely within the legislatively mandated Upper Missouri River Basin Closure. This area is closed to the issuance of any new Provisional Permits. As issued in the July 1, 1992 Final Order all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Because the district is unable to use their reservation they have not submitted any 10 year reviews.

To date no water has been appropriated through this reservation.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7196600 Judith Basin Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	731 acre-feet per year (AF/YR)
Source:	Louse Creek, Otter Creek, Little Otter Creek, Wolf Creek
Acres of Irrigation:	402 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Judith Basin Conservation District responded with additional information on December 17, 2015. The District's response with information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation none of the total reserved volume has been perfected.
5. Irrigation Rights issued post July 1, 1992:
In the 24 years since the reservation was issued two provisional permits have been issued within Judith Basin County for a total volume of 443.75 acre-feet per year. Another provisional permit remains pending for an additional 160 acre-feet per year¹.
 - None of the provisional permits issued were on a reserved source.

¹Judith Basin County Irrigation Rights

- Priority Date Post July 1, 1895 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
41S 84333 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT JUDITH RIVER	3/29/1993	8/12/1994	105
41S 107298 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; Other	UT WOLF CREEK	3/24/1999	6/3/2008	338.75
41R 30104866	PROVISIONAL PERMIT	PEND	IRRIGATION	GROUNDWATER	1/4/2016	<Null>	160

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7319800 Lewis & Clark Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	654 acre-feet per year (AF/YR)
Flow:	4.8 cubic feet per second (CFS)
Source:	Missouri River, Dearborn River, Elk Creek
Acres of Irrigation:	295 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Lewis & Clark Conservation District.

DNRC Review:

The Lewis & Clark Conservation District is located entirely within the legislatively mandated Upper Missouri River Basin Closure. This area is closed to the issuance of any new Provisional Permits. As issued in the July 1, 1992 Final Order all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Because the district is unable to use their reservation they have not submitted any 10 year reviews.

To date no water has been appropriated through this reservation.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7215300 Liberty County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	2,002 acre-feet per year (AF/YR)
Source:	Marias River
Acres of Irrigation:	882 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Liberty County Conservation District. Information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Part of the district has been closed to new appropriations of water through the Fort Belknap – Montana Compact closure. Outside the closure water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation none of the total reserved volume has been perfected.
5. Irrigation Rights issued post July 1, 1992:
In the 24 years since the reservation was issued one provisional permit has been issued for irrigation within Liberty County for a total volume of 243 acre-feet per year¹.
 - The provisional permit issued was on a reserved source.

¹Liberty County Irrigation Rights

- Priority Date Post July 1, 1895 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
41P 30005224	PROVISIONAL PERMIT	ACTV	IRRIGATION	MARIAS RIVER	2/14/2003	4/16/2004	243

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7258800

Lower Musselshell Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	600 acre-feet per year (AF/YR)
Source:	Groundwater from abandoned coal mine
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Lower Musselshell Conservation District. Information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Part of the district has been closed to new appropriations of water through the Musselshell River Administrative Closure. Outside the closure water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation none of the total reserved volume has been perfected.
5. Irrigation Rights issued post July 1, 1992:
In the 24 years since the reservation was issued fourteen provisional permits has been issued for irrigation within the Lower Musselshell Conservation District for a total volume of 2,513.48 acre-feet per year¹. Additionally, one provisional permit is pending for 200 acre-feet per year. Of note is the fact that the Musselshell River Administrative Closure prohibits irrigation from the Musselshell River only during the period of July 1 through August 30 annually. Additionally irrigation in September is limited to supplementing existing irrigation. All of the issued provisional permits for irrigation from the Musselshell River are for use during the spring months.
 - None of the provisional permits issued were on the reserved source, (abandoned coal mine).

¹Lower Musselshell Irrigation Rights

- Priority Date Post July 1, 1895 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Status	Purposes	Source Name	Priority Date	Date Issued	Volume
40C 84312 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	2/18/1993	7/21/1993	160
40A 90380 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	8/22/1994	5/2/1995	54
43Q 93883 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	UT HAY BASIN	5/2/1995	8/2/1995	324
40C 96876 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	6/17/1996	5/22/1997	39.2
40A 108497 00	PROVISIONAL PERMIT	ACTV	IRRIGATION; OTHER	DEAN CREEK	8/5/1999	9/14/2000	11.18
40A 115059 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	2/22/2001	7/5/2001	69.3
40A 30002276	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	5/29/2002	12/31/2002	275
40C 30004952	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	1/2/2003	6/26/2003	35.4
40C 14963 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	8/25/1977	9/25/2003	192.2
40C 30009478	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	1/30/2004	6/6/2006	470
40A 30028082	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	2/19/2008	10/21/2008	175
40C 30044944	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	1/26/2009	5/11/2010	334.2
40A 31437 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	12/4/1980	3/5/2013	163.3
40A 30065818	PROVISIONAL PERMIT	ACTV	IRRIGATION	MUSSELSHELL RIVER	3/22/2013	8/22/2014	210.7
40C 30104097	PROVISIONAL PERMIT	PEND	IRRIGATION	MUSSELSHELL RIVER	10/19/2015	<Null>	200

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7258500 Pondera County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	1,975 acre-feet per year (AF/YR)
Source:	Birch Creek, Two Medicine River, Dry Fork Marias River, UT Bullhead Creek
Acres of Irrigation:	1,006 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Pondera County Conservation District responded on December 21, 2015 with additional information. The following response to the DNRC questionnaire is taken from the submitted 2012 10 year report.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 2 reserved water use authorizations and allocated 494 acre-feet (25.01%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 2 reserved water use authorizations and developed approximately 25.01% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. On April 21, 1993 the Teton River Basin was closed to new appropriations of water. The entire Blackfeet Reservation has a closure that is currently pending ratification. Two of the four reserved sources are located within the Blackfeet Compact Closure. Although most of the available sources have limited water available, outside the two closures water remains available through the provisional permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In their response the District reports that 494 acre-feet per year (25.01%) of the allocated volume has been perfected.
 - Both of the Conservation District rights issued were on a reserved source.
 - Irrigation Rights issued post July 1, 1992:
Since the issuance of the Upper Missouri Water Reservations no provisional permits have been issued for irrigation within Pondera County¹.

¹Pondera County Irrigation Rights

- Priority Date Post July 1, 1985 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Stat	Purpos	Source Name	Priority Date	Date Issued	Volume
41P 93604 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	MARIAS RIVER, DRY FORK	7/1/1985	5/13/1996	130
41M 30027820	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATIO	BIRCH CREEK	7/1/1985	3/7/2008	364

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7257400 Teton County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	3,253 acre-feet per year (AF/YR)
Source:	Muddy Creek, Sun River, Groundwater (well), Teton River
Acres of Irrigation:	1,505 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

The Teton County Conservation District responded with additional information on November 12, 2015. The District's response with information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 3 reserved water use authorizations and allocated 1,140 acre-feet (35.05%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 3 reserved water use authorizations and developed approximately 35.04% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. In most of the county, including the areas where the reserved water sources are located, permit applications are precluded due to the Upper Missouri Legislative Closure, the Teton River Legislative Closure, and the U.S Fish & Wildlife Service Benton Lake Wildlife Refuge Compact Closure. Outside the closures water remains available through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation 35.04% of the total reserved volume has been perfected.

All water reservations in the Upper Missouri River Basin were conditioned such that no water could be appropriated for any use in an area where a permit application was precluded. Three closures are in effect within the Teton County Conservation District that precludes submission of permit applications. In 1993 the Upper Missouri River Closure and the Teton River Closure effectively precluded use of the reserved water on the majority of the district. One exception to the Upper Missouri River Closure allows development of water on Muddy Creek to mitigate erosion caused by return flows from the Fairfield Bench. Additionally, in 1991 the U.S. Fish and Wildlife Service Benton Lake Compact Closure affects a small area within the District. Between the date of the Final Order establishing water reservations in the Upper Missouri River (July 1,

1992) and the compact closures cited above, no “development plans” were submitted or approved that would allow development of the Conservation District water reservations within the closed areas with the exception of Muddy Creek. The condition clearly nullifies the force and effect of this reservation within the majority of the Teton County Conservation District and effectively precludes future development of this water reservation within those areas. Along the northern boundary of the county water remains available in the Marias River drainage.

¹Teton County Irrigation Rights

- Priority Date Post July 1, 1985 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
41K 104362 00	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MUDDY CREEK	7/1/1985	8/10/1998	660
41K 30002060	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MUDDY CREEK	7/1/1985	12/6/2000	250
41K 30002061	CONSERVATION DISTRICT RECORD	ACTV	IRRIGATION	MUDDY CREEK	7/1/1985	6/13/2001	230
41K 30001805	PROVISIONAL PERMIT	ACTV	IRRIGATION	BIG MUDDY CREEK	4/22/2002	6/2/2003	110
41K 30043385	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	SPRING COULEE	9/15/2008	9/16/2011	89.53
41K 30043385	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	SPRING COULEE	9/15/2008	9/16/2011	89.53
41K 30043385	PROVISIONAL PERMIT	ACTV	IRRIGATION; STOCK	SPRING COULEE	9/15/2008	9/16/2011	89.53
41K 30045713	PROVISIONAL PERMIT	ACTV	IRRIGATION	UT MUDDY CREEK	4/20/2009	9/16/2011	50
41O 30049563	PROVISIONAL PERMIT	ACTV	IRRIGATION	WILLOW CREEK	5/6/2011	10/4/2012	279.2
41K 30072520	PROVISIONAL PERMIT	PEND	IRRIGATION	MUDDY CREEK	2/26/2015	<Null>	58

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7258600 Toole County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 2, 1992
Priority Date:	July 1, 1985
Volume:	641 acre-feet per year (AF/YR)
Source:	Marias River, Tiber Reservoir
Acres of Irrigation:	309 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Toole County Conservation District. Information from the 2012 10 Year Review is given below followed by the DNRC review and recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

Department Review:

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. As authorized in the Final Order establishing the reservation all Conservation District reservations have no “force and effect” in any basin where permit applications are precluded. Part of the district has been closed to new appropriations of water through the Fort Belknap – Montana Compact closure. Outside the closure water remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation none of the total reserved volume has been perfected.
5. Irrigation Rights issued post July 1, 1992:
In the 24 years since the reservation was issued four provisional permits have been issued for irrigation within Toole County for a total volume of 4,314.94 acre-feet per year¹. Additionally, two provisional permits are currently pending.
 - Two of the provisional permits were issued on a reserved source.

¹Toole County Irrigation Rights

- Priority Date Post July 1, 1895 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WR Number	WR Type	Stat	Purposes	Source Name	Priority Date	Date Issued	Volume
41P 78853 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/6/1992	1/12/1993	124
41P 98660 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	GROUNDWATER	4/30/1997	5/7/2004	172
41P 112118 00	PROVISIONAL PERMIT	ACTV	IRRIGATION	MARIAS RIVER	2/26/2001	10/9/2001	30.94
41P 30025890	PROVISIONAL PERMIT	ACTV	IRRIGATION	MARIAS RIVER	6/6/2008	3/3/2010	3988
41N 30104996	PROVISIONAL PERMIT	PEND	IRRIGATION; STOCK	ARTESIAN WELL	1/11/2016	<Null>	<Null>
41N 30104996	PROVISIONAL PERMIT	PEND	IRRIGATION; STOCK	ARTESIAN WELL	1/11/2016	<Null>	<Null>

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7257600 Valley County Conservation District

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1 1992
Priority Date:	July 1, 1985
Volume:	92,000 acre-feet per year
Source:	Missouri River (Fort Peck Reservoir)
Acres of Irrigation:	25,020 acres
Perfection Date:	December 31, 2025

Project Description:

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that have not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). The Administrative Rules of Montana (ARM) 36.16.120 outline the criteria that each 10 year report shall address.

Ten year reports have been routinely submitted by all active Conservation Districts and compiled by the Conservation and Resource Development Division of the DNRC. However, the Water Rights Division of the DNRC determined that these reports were not reviewed as required by statute. A questionnaire was sent to each reservant on October 14th, 2015 asking whether the district wished to provide additional information regarding the MCA criteria for the mandated 10 year report. A letter accompanying the questionnaire identified December 31, 2015 as the deadline to submit a response. The letter stated that if no response were received the DNRC would consider the previously submitted ten year review as adequate.

No response was received from the Valley County Conservation District. The following is an abbreviated compilation of the specific criteria addressed through the 2012 Ten Year Review followed by DNRC review & recommendations.

District Response, (2012 Ten Year Review) – ARM Reporting Requirements [36.16.120]

Summary: Please provide the amount granted, amount allocated to date, any change in amount required or methodology used to determine amount needed.

Response:

The District has issued 0 reserved water use authorizations and allocated 0 acre-feet (0%) and 0 CFS of their reservation. There has been no change in the amount required. Methodology used to determine amount needed is still applicable.

Purpose: Does the purpose remain the same as identified in the district application and BNRC order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Need: Does the need still exist as identified in the district application and the BNRC board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Amount: Is the amount still appropriate and in accordance with the application and board order?

Response:

Remains the same as identified in the original district application and BNRC Order.

Public Interest: Is the reservation still in the public interest as identified in the application and BNRC Order:

Response:

Remains the same as identified in the original district application and BNRC Order.

Compliance: Has reservant provided all required compliance documents?

Response:

Yes, all required documents have been submitted.

Perfection: What factors have deterred the progress toward perfecting this reservation and what actions has the District taken toward perfecting this reservation?

Response:

District has granted 0 reserved water use authorizations and developed approximately 0% of their reservation.

The following factors have deterred progress toward perfecting this reservation:

- The District general plan was not finalized until 1996 because assistance from DNRC was not previously available.
- Depressed agricultural economy for the past 22 years has been a significant deterrent to full development of the reservation.

The District has taken the following actions toward perfecting this reservation:

- In 2002 an information/promotion brochure was produced and distributed.

DNRC Review – ARM Reporting Requirements [36.16.120]

1. The reservant appears to be in substantial compliance with the purpose, public interest, and compliance.
2. Need for the reservation appears questionable. Water from the reserved source remains available for appropriation through the DNRC Provisional Permitting process.
3. The amount granted appears to be greater than the demand that has materialized since the reservation was granted.
4. In the 24 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. Water from the reserved sources remains available and is being appropriated through the provisional permit process.
5. Irrigation Rights issued post July 1, 1992:
In the 24 years since the reservation was issued one provisional permit for a total volume of 250 acre-feet per year has been issued for irrigation use within Valley County above Fort Peck Dam¹.
 - Issued right was from the reserved source, (Fort Peck Lake).

¹Valley County Irrigation Rights above Fort Peck Dam

- Priority Date Post July 1, 1895 (Priority Date of Upper Missouri Final Order)
- Issued Post July 1, 1992 (date of issue, Upper Missouri Final Order)

WRNUMBER *	WRTYPE	STATUS	PRIORITY DATE	DATE ISSUED	SRCNAME	PURPOSE	VOLUME
40E 101086 00	PROVISIONAL PERMIT	ACTV	5/12/1997	3/18/1998	MISSOURI RIVER (FORT PECK LAKE)	IRRIGATION	250

Appendix G

State and Federal Reservations

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 993100 Montana Department of State Lands

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	12,858 acre-feet per year
Source:	Yellowstone River, Big Horn River, Rock Creek, Daisy Dean Creek, Alkali Creek, Big Timber Creek, Red Lodge Creek
Perfection Deadline:	December 31 st , 2000

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Montana Department of State Lands submitted a response on December 3rd, 2015.

General Information:

In the 1990 Annual Progress Report the Montana Department of State Lands presented information indicating one project had been developed. As issued, this reservation had an expiration date of December 31, 2000.

Montana Department of State Lands Response:

The Montana Department of State Lands response indicated that none of the reservation had been perfected. The project reported as having been developed in the 1990 review appears to have been accomplished with water from Rosebud Creek under provisional permit 42A 59014-00. The Department of State Lands acknowledges that this reservation is expired and is no longer available for future development.

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 993300 Montana Department of State Lands

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	25,889.78 acre-feet per year
Source:	Yellowstone River
Perfection Deadline:	December 31 st , 2000

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Montana Department of State Lands submitted a response on December 3rd, 2015.

General Information:

In the 1990 Annual Progress Report the Montana Department of State Lands indicated that none of the reservation had been developed. As issued, this reservation had an expiration date of December 31, 2000.

Montana Department of State Lands Response:

The Montana Department of State Lands response indicated that none of the reservation had been perfected. The Department of State Lands acknowledges that this reservation is expired and is no longer available for future development.

DNRC SUMMARY REPORT SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 993400 Montana Department of State Lands

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	15,078 acre-feet per year
Source:	Yellowstone River
Perfection Deadline:	December 31 st , 2000

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Montana Department of State Lands submitted a response on December 3rd, 2015.

General Information:

In the 1990 Annual Progress Report the Montana Department of State Lands indicated that none of the reservation had been developed. As issued, this reservation had an expiration date of December 31, 2000.

Montana Department of State Lands Response:

The Montana Department of State Lands response indicated that none of the reservation had been perfected. The Department of State Lands acknowledges that this reservation is expired and is no longer available for future development.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 994200 Montana Department of Natural Resources and Conservation (DNRC)

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	383,000 acre-feet per year for all beneficial purposes allowed by Montana law. Not more than 450,000 acre-feet per year to be stored in an enlarged Tongue River Reservoir.
Source:	Tongue River

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Montana Department Natural Resources and Conservation (DNRC) submitted a response on December 28, 2015.

Required Reporting [36.16.120]

1. Summary: Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

DNRC response:

The reservation remains as granted in the December 15, 1979 Final Order. 383,000 acre-feet of water per year allowing the total appropriation of not more than 450,000 acre-feet of water per year from, the Tongue River, to be stored in an enlarged Tongue River Reservoir.

2. Purpose: Does the purpose remain the same as identified in the application and order?

DNRC response:

The purpose remains as authorized by the Board of Natural Resources and Conservation with the following exception. The purpose is to ensure that the water supply of the Tongue River Basin will be available for future needs, uses and purposes.

The following change in purpose has occurred.

- 1,821 acre-feet of water will no longer be supplied to the Department of State Lands under Reservations 993100 & 993300. Both of these reservations expired in the year 2000 and no development as proposed in the application and final order occurred.

3. Need: Does the need still exist as identified in the application and order?

DNRC response: The need still exists as identified in the application and order.

4. Amount: Is the amount still appropriate and in accordance with the application and order?

DNRC response:

The amount is still appropriate in accordance with the application and Board Order. The amount of reserved water granted by the board is 383,000 acre-feet of water per year. Of this, 13,000 acre-feet as been allocated, with 370,000 acre-feet remaining.

5. Public Interest: Does the reservation remain in the public interest as identified in the application and order?

DNRC response:

The Tongue River Reservation continues to provide important agricultural, economic, fisheries and recreational related benefits to the people of Montana. Maintaining this reservation continues to remain a high priority and is in the best interest of the public.

6. Compliance: Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

DNRC response:

Applicant has submitted all required compliance documents. Additionally, the applicant cites completion of the Tongue River Basin Project Final EIS, March 1996 – This major study was written to fulfill the requirements of both the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA), for the Tongue River Basin Project. The project, which involved the rehabilitation of the Tongue River Dam, was implemented to alleviate dam safety concerns, to protect downstream lives and property, to protect all existing water rights, and to provide up to an additional 20,000 acre-feet of water to the Northern Cheyenne Tribe, as stated in the 1992 Settlement Act.

7. Perfection: If a diversionary reservation has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will the reservant take to insure perfection of the reservation?

DNRC response:

- Amount of reserved water use to date:
 - 13,000 acre-feet annually
- Amount of reserved water use anticipated in the original reservation:
 - 383,000 acre-feet annually

Discussion:

Decker Coal Company operates three large coal mines adjacent to the upper end of Tongue River Reservoir. DNRC would have to totally inundate these coal mines in order to construct a reservoir large enough to store the balance of the currently reserved water right. Currently, increased groundwater seepage into the mines resulting from the recently completed enlargement of the reservoir is complicating storage and use of the initial portion of reserved water, now begin put to beneficial use. Only after the coal mines have ceased operations and have been reclaimed could DNRC potentially construct a project large enough to store all the reserved water in one location. Decker Coal currently projects end of mine life to be in the year 2020. After reclamation, DNRC could enlarge Tongue River Reservoir again in approximately 2025.

Department Review:

1. The reservant appears to be in substantial compliance with the need, amount, purpose, public interest, and compliance.
2. In the 38 years since the Final Order establishing the reservation was issued 13,000 acre-feet per year of the reservation has been perfected. Construction of the enlarged reservoir will require inundating three large existing coal mines. Applicant states that the expected end of the mining life for these coal mines is 2020. After reclamation, construction of the enlarged reservoir could begin as early as 2025. No expiration date was assigned in the Final Order.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1233000 USA Bureau of Reclamation (BOR)

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	121,800 acre-feet per year to be stored in the proposed Cedar Ridge Reservoir.
Source:	Yellowstone River

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Bureau of Reclamation submitted the following response on December 23, 2015.

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

BOR Response:

121,800 acre-feet; none allocated to date. Methodology remains consistent as applied for in original application.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order?

BOR Response:

Purpose remains consistent as identified in the original application with the addition that this may also provide an avenue for the development of non-consumptive clean energy (Industrial).

- 3. Need:** Does the need still exist as identified in the application and order?

BOR Response:

The need remains the same as identified in the original application. The need for additional storage is especially prevalent as identified in the Montana State Water Plan. In addition, the impending uncertainty of the remaining Compacts throughout the state exemplifies the need for future storage of the waters of and within the State of Montana not only for new development but also to protect existing uses.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order?

BOR Response:

The amount of water applied for and granted is still appropriate and necessary to provide for the purposes intended. The methodology used to determine the amount is still applicable.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order?

BOR Response:

Please refer to #3 above.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

BOR response:

BOR has no additional documentation beyond that submitted with original application. Any future documents relating to development will be submitted to DNRC upon completion.

- 7. Perfection:** If a diversionary reservation has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will the reservant take to insure perfection of the reservation?

BOR Response:

Funding is the primary factor deterring progress toward perfecting the water reservation. Recent statewide actions pertaining to water resources (Reserved Compacts, Montana State Water Plan, Adjudication) may initiate additional interest toward funding/perfection of this water reservation.

Department Review:

1. The reservant appears to be in substantial compliance with the need, amount, purpose, public interest, and compliance.
2. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. Reservant cites a lack of funding as the primary reason for not proceeding with this reservation. No expiration date was assigned in the Final Order.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1233100 USA Bureau of Reclamation (BOR)

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	68,700 acre-feet per year to be stored in the proposed Buffalo Creek Reservoir.
Source:	Yellowstone River

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Bureau of Reclamation submitted the following response on December 23, 2015.

Required Reporting [36.16.120]

- 1. Summary:** Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

BOR Response:

68,000 acre-feet; none allocated to date. Methodology remains consistent as applied for in original application.

- 2. Purpose:** Does the purpose remain the same as identified in the application and order?

BOR Response:

Purpose remains consistent as identified in the original application with the addition that this may also provide an avenue for the development of non-consumptive clean energy (Industrial).

- 3. Need:** Does the need still exist as identified in the application and order?

BOR Response:

The need remains the same as identified in the original application. The need for additional storage is especially prevalent as identified in the Montana State Water Plan. In addition, the impending uncertainty of the remaining Compacts throughout the state exemplifies the need for future storage of the waters of and within the State of Montana not only for new development but also to protect existing uses.

- 4. Amount:** Is the amount still appropriate and in accordance with the application and order?

BOR Response:

The amount of water applied for and granted is still appropriate and necessary to provide for the purposes intended. The methodology used to determine the amount is still applicable.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order?

BOR Response:

Please refer to #3 above.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

BOR response:

BOR has no additional documentation beyond that submitted with original application. Any future documents relating to development will be submitted to DNRC upon completion.

- 7. Perfection:** If a diversionary reservation has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will the reservant take to insure perfection of the reservation?

BOR Response:

Funding is the primary factor deterring progress toward perfecting the water reservation. Recent statewide actions pertaining to water resources (Reserved Compacts, Montana State Water Plan, Adjudication) may initiate additional interest toward funding/perfection of this water reservation.

Department Review:

1. The reservant appears to be in substantial compliance with the need, amount, purpose, public interest, and compliance.
2. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. Reservant cites a lack of funding as the primary reason for not proceeding with this reservation. No expiration date was assigned in the Final Order.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1233200 USA Bureau of Reclamation (BOR)

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	539,000 acre-feet per year to be stored in the proposed Sunday Creek Reservoir.
Source:	Yellowstone River

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Bureau of Reclamation submitted the following response on December 23, 2015.

Required Reporting [36.16.120]

1. Summary: Please provide a summary of the amount granted, allocated to date, any change in the amount required to satisfy the purpose and need of the reservation, and any change in the methodology originally used to determine the amount.

BOR Response:

539,000 acre-feet; none allocated to date. Methodology remains consistent as applied for in original application.

2. Purpose: Does the purpose remain the same as identified in the application and order?

BOR Response:

Purpose remains consistent as identified in the original application with the addition that this may also provide an avenue for the development of non-consumptive clean energy (Industrial).

3. Need: Does the need still exist as identified in the application and order?

BOR Response:

The need remains the same as identified in the original application. The need for additional storage is especially prevalent as identified in the Montana State Water Plan. In addition, the impending uncertainty of the remaining Compacts throughout the state exemplifies the need for future storage of the waters of and within the State of Montana not only for new development but also to protect existing uses.

4. Amount: Is the amount still appropriate and in accordance with the application and order?

BOR Response:

The amount of water applied for and granted is still appropriate and necessary to provide for the purposes intended. The methodology used to determine the amount is still applicable.

- 5. Public Interest:** Does the reservation remain in the public interest as identified in the application and order?

BOR Response:

Please refer to #3 above.

- 6. Compliance:** Please provide information evidencing compliance with the board's order granting the reservation. The information shall include a list of all compliance documents such as general plans, detailed plans, annual and biennial reports and their submittal dates.

BOR response:

BOR has no additional documentation beyond that submitted with original application. Any future documents relating to development will be submitted to DNRC upon completion.

- 7. Perfection:** If a diversionary reservation has not reached the development level projected, what factors have deterred the progress toward perfecting the water reservation and what actions will the reservant take to insure perfection of the reservation?

BOR Response:

Funding is the primary factor deterring progress toward perfecting the water reservation. Recent statewide actions pertaining to water resources (Reserved Compacts, Montana State Water Plan, Adjudication) may initiate additional interest toward funding/perfection of this water reservation.

Department Review:

1. The reservant appears to be in substantial compliance with the need, amount, purpose, public interest, and compliance.
2. In the 38 years since the Final Order establishing the reservation was issued none of the reservation has been perfected. Reservant cites a lack of funding as the primary reason for not proceeding with this reservation. No expiration date was assigned in the Final Order.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1233401 USA Bureau of Land Management (BLM)
Montana Department of State Lands (DSL)

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	2,924 acre-feet per year to irrigate 1,992 acres
Source:	O'Fallon Creek

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Montana Department of State Lands submitted a response on December 4, 2015. *No response was received from the Bureau of Land Management.*

Department Review:

Yellowstone Final Order granted the Bureau of Land Management two reservations for irrigation. After a period of prolonged non-use, the BLM ceded half of these two reservations to the DSL. To date none of the reserved water has been put to use. Both of these reservations were to be perfected by the year 2000. In their response to the DNRC request for information DSL acknowledged the fact that these reservations had expired. No response was received from the BLM.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 1233402 USA Bureau of Land Management (BLM)
Montana Department of State Lands (DSL)

Reservation Description:

Final Order:	Yellowstone River Basin, Issued December 15, 1978
Priority Date:	December 15, 1978
Volume:	17,476 acre-feet per year to irrigate 8,738 acres
Source:	Yellowstone River

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. The Montana Department of State Lands submitted a response on December 4, 2015. *No response was received from the Bureau of Land Management.*

Department Review:

Yellowstone Final Order granted the Bureau of Land Management two reservations for irrigation. After a period of prolonged non-use, the BLM ceded half of these two reservations to the DSL. To date none of the reserved water has been put to use. Both of these reservations were to be perfected by the year 2000. In their response to the DNRC request for information DSL acknowledged the fact that these reservations had expired. No response was received from the BLM.

DNRC SUMMARY REPORT

SB330 WATER RESERVATION TEN YEAR REVIEW

Reservation # 7257900 USA Bureau of Reclamation (BOR)

Reservation Description:

Final Order:	Upper Missouri River Basin, Issued July 1, 1992
Priority Date:	July 1, 1985
Volume:	68,000 acre-feet per year for irrigation in the Milk River Basin
Source:	Missouri River
Perfection Date:	December 31, 2025

Senate Bill 330, passed by the 64th Montana Legislature, required the DNRC to initiate a review of existing state water reservations that had not received a 10 year review as required by §85-2-316, Montana Code Annotated (MCA). A questionnaire was sent to each reservant on October 14th, 2015 asking for information regarding the MCA criteria for the mandated ten year review. A letter accompanying the questionnaire identified December 31, 2015 as the deadline for receiving a response. *No response was received from the Bureau of Land Management.*

Department Review:

1. The reservant appears to be in substantial compliance with the purpose and public interest.
2. Reservant is non-compliant with the terms of the Final Order. Senate Bill 300 was passed to mandate a review of all existing reservations as required through the Final Order and codified as §85-2-316 (MCA). No response to the DNRC request for information was received from the Reservant.
3. The need for the reservation continues to exist. Water for irrigation is in short supply in the Milk River Basin.
4. The amount granted may exceed the available supply unless storage is incorporated. The combined flow for two of the instream flow reservations granted through this Final Order exceed the amount physically available from August through October.