

**Reasons DNRC needs a Hydrologist for the International Joint Commission
Milk/St. Mary River Apportionment Issues**

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Background

- Article VI of the 1909 Boundary Waters Treaty apportions the flows of the Milk and St. Mary Rivers between the U.S. and Canada.
- The 1921 Order is to implement the language of Article VI which states:
“...the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan)[1] are to be treated as one stream for the purpose of irrigation and power, [2] and the waters therefore shall be apportioned equally between the two countries, [3] but in making such equal apportionment more than half may be taken from one river and less than half from the other river by either country so as to afford a more beneficial use to each.”
- The two rivers are not treated as one stream--they are apportioned separately; and the waters are not apportioned equally as the United States receives considerably less, especially in dry years.
- Montana irrigators continue to experience severe water shortages in the Milk River Basin. Water shortages occur in 6 out of every 10 years and almost all irrigators receive about ½ of a full-service water supply. The basin has been closed to new appropriations for many years.
- The U.S. Bureau of Reclamation testified in the 1920s that it could irrigate 220,000 acres in the Milk River basin, but today it irrigates about 140,000 acres.
- In dry years, 90 to 95% of the flow in the Milk River is water diverted from the St. Mary River.
- New Canadian uses and proposed Alberta storage project on the Milk River basin of Alberta with an additional 33,000 acres of irrigation will only exacerbate the existing U.S. shortages.
- The U.S. is entitled to far less water under the existing Order than Canada. In dry years the U.S. is entitled to less than 40 percent of the combined flows and Canada is entitled to more than 60 percent. This is because Canada receives a much larger percentage of St. Mary water while the U.S. share is never balanced by the erratic, more drought-prone Milk River.
- In almost all years, the U.S. receives less water than it is entitled under the existing Order and Canada receives more. In each year, the U.S. almost always receives less water than Canada.
- The 1921 Order has not been reviewed in 83 years. The U.S. tried to have the Order reviewed in 1930, but was unsuccessful. At that time, the IJC said not enough time had elapsed. This is the only issue in the 80 plus years of the IJC that the Commissioners have not achieved consensus.
- A review is timely. U.S. water shortages are getting worse and Canada continues to use more Milk River water for new irrigation.
- There are numerous problems with the existing Administrative Procedures used to implement the 1921 Order that hurt the U.S.

IJC Directive

- IJC created a Directive in December 2004 for improving the Administrative Procedures under the existing 1921 IJC Order.
- Alberta will fight us for every drop of water.
- As IJC Commissioner Alan Olsen and past governor of North Dakota has said, this is the first phase. Montana still wants to open up the 1921 Order, as this is the only way we will be able to obtain our 50% share of the St. Mary and Milk Rivers, which is really needed in drought years and our rightful share under the Treaty.

A hydrologist is need for the following tasks:

- Understand the existing apportionment procedures including assumptions for the Milk and St. Mary rivers.
- Understand how water is used in Alberta, Saskatchewan and Montana. Especially the numbers of acres irrigated, diversion requirements and efficiencies.
- Determine how to improve the existing administrative procedures, which will require building a hydrologic accounting model based on the past 80 plus years of historical data.
- Determine changes to the apportionment period to maximize Montana use of St. Mary water. The same would apply to Alberta in the Milk River.
- Help MT respond to Alberta, Environment Canada and Saskatchewan argument for not giving Montana any more water.
- Help MT build a technical case to open up the 1921 Order.
- Determine the most efficient amount of water that can be transferred in a rehabilitated St. Mary canal. Assess various canal sizes based on the Administrative Procedures, 1921 Order, Blackfeet Reserved Water rights and engineering design limitations.