

THE YELLOWSTONE RIVER
INSTREAM RESERVATION

SEVENTH ANNUAL REPORT

DECEMBER 16, 1984 - DECEMBER 15, 1985

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INTRODUCTION

The Order of the Board of Natural Resources and Conservation establishing water reservations for the Yellowstone basin was signed on December 15, 1978. As a result of that Order, the Department of Fish, Wildlife and Parks (MDFWP) was granted an instream reservation for the Yellowstone at Sidney of approximately 5.5 million acre-feet of water with varying amounts granted in upstream areas and tributaries.

The MDFWP applied for instream reservations on many streams and tributaries where little, if any, flow data were available. In granting an instream reservation for those waters, the Board frequently granted a percentile flow rather than a specific amount of water in acre-feet or cfs. In such areas, the department was directed by the Board through condition 116 to develop and submit to the Board within 5 years of December 15, 1978, a plan to convert the minimum flow instream reservation quantities into cubic feet of water per second and acre-feet of water per month.

Condition 117 states that the reservant shall submit to the Board an annual progress report setting forth accomplishments toward completion of such work as outlined condition 116, a schedule of anticipated progress and other information as may be required. This report is designed to fulfill the requirement of the seventh-year annual progress report.

INSTREAM FLOW QUANTIFICATIONS

The quantification of the granted percentile flows is being completed by the Helena office of the USGS through a cost-share cooperative agreement with the MDFWP. During the first year of the agreement (phase 1), the needed flow data were collected for 22 stream sites within the Yellowstone River drainage upstream from Livingston, Montana. The preliminary instream flow quantifications that were derived by the USGS for these sites were presented in the fifth annual report. During the second year of the agreement (phase 2), the needed flow data were collected for 19 stream sites in the Shields River drainage and the Yellowstone drainage downstream from Livingston and the preliminary flow quantifications for these sites presented in the sixth annual report. The draft of a formal report that finalizes the quantifications for phase 1 and 2 streams was completed by the USGS in September, 1985 and reviewed by this Department. The final is scheduled for release in 1986.

The quantification of the granted percentile flows for the Yellowstone spring creeks and tributaries to the Stillwater and Clarks Fork rivers will be completed by the USGS during phase 3 of the agreement (see page 5 of the sixth annual report for a list of these remaining streams). Collection of the needed flow data for phase 3 streams began in May, 1985 and will continue through April, 1986. Field measurements are being made at 14 sites (see Appendix A for a list of sites and flow measurements collected to date). For another 10 sites, existing flow data collected by the USGS and MDFWP are believed sufficient for use in quantifying the granted flows. These quantifications will be included in the final phase 3 report, which is scheduled for release in 1987.

Other Completed Tasks

The six flow quantifications listed on pages 3 and 4 of the fifth annual report were recalculated by the USGS to encompass the 1934-82 base flow period (Table 1). All quantifications of percentile flows will reflect this period. These six sites are:

1. Bluewater Creek (Mouth-Headwaters) #6-2078
2. Brackett Creek (Mouth-Sheep Creek) #6-1940
3. Rock Creek (Mouth-Custer National Forest) #6-2095
4. Sweet Grass Creek (Mouth-Forest Service boundary) #6-2005
5. Clarks Fork Yellowstone River #6-2075 (near Belfry)
6. Clarks Fork Yellowstone River #6-2085 (at Edgar)

At least ten years of continuous daily flow records have recently been completed for four gage sites established by the USGS in the 1970s. The quantification of the granted flows for these sites were calculated using these records (Tables

Table 1. Quantification of granted percentile flows in cubic feet of water per second and acre-feet per month. Flow quantifications are adjusted to a common 1934-82 base period.

Bluewater Creek				Brackett Creek			
85th Percentile				50th Percentile			
	cfs	AF		cfs	AF		
Jan.	26.5	1,629		7.0	430		
Feb.	27.5	1,527		7.0	389		
Mar.	27.0	1,660		9.0	553		
Apr.	28.0	1,666		42.0	2,499		
May	27.0	1,660		93.0	5,717		
Jun.	25.5	1,517		79.0	4,700		
Jul.	24.0	1,475		27.0	1,660		
Aug.	25.0	1,537		10.0	615		
Sep.	26.0	1,547		11.0	654		
Oct.	27.0	1,660		11.0	676		
Nov.	27.0	1,606		9.0	535		
Dec.	27.0	1,660		7.0	430		
19,144 AF/year				18,858 AF/year			
Rock Creek				Sweet Grass Creek			
85th Percentile				90th Percentile			
	cfs	AF		cfs	AF		
Jan.	29.0	1,783		8.0	492		
Feb.	27.0	1,499		8.0	444		
Mar.	25.5	1,568		8.0	492		
Apr.	30.0	1,785		10.0	595		
May	113.0	6,946		84.0	5,164		
Jun.	418.5	24,897		252.0	14,991		
Jul.	326.5	20,071		112.0	6,885		
Aug.	205.5	12,633		41.0	2,520		
Sep.	108.5	6,455		26.0	1,547		
Oct.	66.0	4,057		20.0	1,229		
Nov.	45.0	2,677		16.0	952		
Dec.	34.5	2,121		10.0	615		
86,492 AF/year				35,926 AF/year			

Table 1 continued.

	Clarks Fork Yellowstone River Near Belfry			Clarks Fork Yellowstone River at Edgar		
	70th Percentile June-Sept.			70th Percentile June-Sept.		
	90th Percentile Oct.-May			90th Percentile Oct.-May		
	<u>cfs</u>	<u>AF</u>		<u>cfs</u>	<u>AF</u>	
Jan.	186.0	11,434		300.0	18,442	
Feb.	194.0	10,772		299.0	16,602	
Mar.	189.0	11,618		308.0	18,934	
Apr.	250.0	14,873		357.0	21,238	
May	1,062.0	65,284		1,051.0	64,608	
Jun.	3,477.0	206,847		3,569.0	212,320	
Jul.	1,640.0	100,816		1,537.0	94,484	
Aug.	423.0	26,003		399.0	24,528	
Sept.	240.0	14,278		393.0	23,380	
Oct.	117.0	7,192		332.0	20,409	
Nov.	200.0	11,898		401.0	23,855	
Dec.	229.0	14,077		330.0	20,286	
		495,092 AF/year			559,086 AF/year	

2 and 3). Sites are:

1. Rosebud Creek (Cottonwood Creek-Yellowstone River) #06296003
2. Hanging Woman Creek (Mouth of East Fork-Tongue River) #06307600
3. Otter Creek (Mouth of Bear Creek-Tongue River) #06307740
4. Pumpkin Creek (Mouth of Deer Creek-Tongue River) #06308400

For Hanging Woman, Otter, and Pumpkin creeks, the Board granted the historic minimum monthly flows as the instream reservation rather than percentile flows. Since a reliable method for synthesizing the flows prior to the establishment of these three gages has not been established for these prairie streams, the historic period was limited to the period the gages were operated. These records include drought years in 1977 and 1984.

1985 DROUGHT

Since the Board established the Yellowstone Water Reservations on December 15, 1978, a number of water use permits have been issued which are junior to the Yellowstone Reservations. The MDFWP holds substantial instream flow reservations in the Yellowstone basin which can affect water availability for junior water permit holders under certain low flow conditions.

It is the policy of the MDFWP to notify all junior water permit applicants, at the time they apply for a water use permit, of the existence of the MDFWP instream flow reservation. They are informed that, under certain low stream flow conditions, the instream flow reservation may affect water availability for their project. All water use permits in the Yellowstone basin junior to the instream flow reservation are conditioned to recognize and be subject to the reservation.

Snow survey reports issued by the SCS predicted that the Yellowstone basin would experience severe water shortages in the summer of 1985, with stream flows ranging from 30-70% of normal. It was anticipated that flows would fall below those amounts granted in the Yellowstone Reservation of 1978 for the protection of fish and wildlife habitats and the maintenance of water quality. To protect these instream reservations, the MDFWP on July 2, 1985 sent a letter to the 101 junior water permit holders on those streams having an instream flow reservation, notifying them of the current drought and the fact that the instream reservation could affect their water use during the irrigation season (see letter in Appendix B). This letter also pointed out that it was the junior permit holder's responsibility to determine when stream flows fell below the amounts reserved for instream purposes, and to cease withdrawing water when that level was reached. Each permittee was assigned a specific USGS gage to monitor flows, and requested to contact the Water Rights Field offices in Bozeman, Billings or Miles City to obtain current flow information. The Department of Health and Environmental Sciences followed

Table 2. Quantification of the granted percentile flows for Rosebud Creek (Gage #06296003) in cubic feet of water per second and acre-feet per month. Flow quantifications are adjusted to the 1934-82 base period.

Rosebud Creek 80th Percentile		
	cfs	AF
Jan.	7.0	430
Feb.	18.0	999
Mar.	22.0	1,352
Apr.	36.0	2,142
May	28.0	1,721
Jun.	37.0	2,201
Jul.	9.0	553
Aug.	7.0	430
Sep.	2.0	119
Oct.	9.0	553
Nov.	10.0	595
Dec.	12.0	738
		11,833 AF/year

Table 3. Quantification of the historic minimum monthly flows for Hanging Woman (Gage #06307600), Otter (Gage #06307740), and Pumpkin (Gage #06308400) creeks in cubic feet of water per second and acre-feet per month.

	Hanging Woman Creek a/		Otter Creek b/	
	cfs	AF	cfs	AF
Jan.	0.30	18.4	1.67	102.7
Feb.	0.60	33.3	1.87	103.8
Mar.	0.66	40.6	2.65	162.9
Apr.	0.61	36.3	1.59	94.6
May	0.52	32.0	2.61	160.4
Jun.	0.34	20.2	2.14	127.3
Jul.	0.01	0.6	0.28	17.2
Aug.	0.00	0.0	0.08	4.9
Sep.	0.00	0.0	0.13	7.7
Oct.	0.04	2.5	0.40	24.6
Nov.	0.18	10.7	1.63	97.0
Dec.	0.06	3.7	2.05	126.0
		198.3 AF/year		1,029.1 AF/year

	Pumpkin Creek b/	
	cfs	AF
Jan.	0.00	0.0
Feb.	0.00	0.0
Mar.	0.01	0.6
Apr.	0.00	0.0
May	0.00	0.0
Jun.	0.00	0.0
Jul.	0.00	0.0
Aug.	0.00	0.0
Sep.	0.00	0.0
Oct.	0.00	0.0
Nov.	0.00	0.0
Dec.	0.00	0.0
		0.6 AF/year

a/ Period of record September 1973 through September 1984.

b/ Period of record October 1972 through September 1984.

with a similar letter on July 24. Twice a week between July 8 and October 3, 1985 the MDFWP obtained from the USGS the current flow readings for the 10 gaging sites, recorded these flows along with the amounts of the instream reservation for each site on data sheets (see example in Appendix C) and sent these to the Water Rights Field offices to relay to the callers.

The MDFWP closely monitored stream flows throughout the summer. By early August flows had dropped far below the reserved instream flows on a number of streams and little relief was in sight. Critically low streams having a significant number of junior permit holders included the Stillwater, Big Horn and Tongue rivers. Junior permittees on these 3 streams (34 in total) were informed by letter on August 20 that if they had not already ceased withdrawing water, they were required to do so at this time (see letter in Appendix D).

Above normal rainfall in August and September helped to alleviate the drought, and, by mid to late September, many streams were flowing at or near normal levels.

MUNICIPAL WATER RESERVATIONS

Water permit applications for two subdivisions within the Billings area have raised a number of questions regarding the Board's intent when water reservations were granted in 1978 to various cities within the Yellowstone Basin. The two subdivisions, Lockwood (#54172-S43Q) and Cedar Park (#57973-S43Q), applied to appropriate water from the Yellowstone River for municipal purposes.

The MDFWP informed each applicant of the water reserved to the City of Billings for municipal uses, and that if the application is not for a portion of this reserved water, the permit would be junior to the Department's instream flow reservation for the Yellowstone River. A municipality needs a dependable, continuous, year-round water supply, requirements that could not be satisfied in all months in all years if the permit was subject to the terms of the instream reservation.

The stipulations imposed by the City of Billings for use of a portion of its reserved waters were unacceptable to Lockwood and use of these waters was subsequently denied by Billings. Cedar Park was also not willing to agree to the conditions proposed by the City of Billings, a copy of which is attached as Appendix E. Lockwood then applied for a provisional permit under 85-2-311, MCA. The objections of a number of Conservation Districts to Lockwood's application resulted in the scheduling of a hearing. The question of whether or not Lockwood was entitled to be issued a permit for the use of reserved waters was considered by the hearings examiner under Section 85-2-316(7), MCA, and under the authority granted in paragraph 18(b) of the Board's 1978 Order as amended by subsequent Order of September 12, 1980. The examiner, however, was unable to

make a determination without clearer evidence of the Board's intent when it granted municipal reservations to Billings and other cities. DNRC adopted the hearing examiner's proposal without any significant changes in substance as DNRC's final order. The major issues needing clarification by the Board and brought to light in the DNRC's final order were:

1. In support of their reservation applications, municipalities projected what their future water needs would be based on the anticipated population growth within a specified planning area. If a subdivision or other land unit was included in this planning area, are the present and future residents therefore entitled to a portion of the reserved water and, if so, does the city have the authority to impose stipulations, such as annexation and connection to the city's water lines, as requirements for the use of these waters? If the Board intended to allow stipulations, what stipulations are reasonable?
2. Is the term "planning area" equal to the term "water service area" which was ultimately used in granting Billings' reservation?

Lockwood was eventually granted an provisional permit that was subject to all existing rights and reservations. The circumstances of the recent Cedar Park application were similar and resolved in a like manner. In effect, the use of reserved water was denied to both Lakewood and Cedar Park.

There are at least two procedural avenues by which the above questions could come before the Board for resolution. First, an entity, such as Lockwood Water Users Association or Cedar Park Subdivision, could make an application directly to the Board. The application, probably in the form of a request for a declaratory ruling by the Board, would ask the Board to rule on the meaning of the Orders granting a reservation for municipal use to the City of Billings. The Board would be asked to determine if the applicant is eligible to use the municipal reservation and, if eligible, whether the City of Billings may impose conditions on the use of the reserved water. Additionally, if the City of Billings may impose conditions, what conditions may be imposed without violating the terms and conditions of the municipal water reservation.

Second, the DNRC may issue a permit for reserved water. Specifically, DNRC "...may, with the approval of the Board, issue the permit subject to such terms and conditions it considers necessary for the protection of the objectives of the reservation." Section 85-2-316(7), MCA. DNRC declined to consider granting a permit for reserved water because it could not determine whether Lockwood Water Users Association was entitled to use a portion of the municipal reservation of the City of Billings. See Proposal and Final Order In the Matter of the Application for Beneficial Water Use Permit No. 54172-S43Q by Lockwood Water Users Association. MDFWP believes

that a reasonable approach to resolving these issues would be for the DNRC itself to ask the Board for a declaratory ruling as to the meaning of the Board's Orders granting a water reservation to the City of Billings or to ask for the Board's approval under Section 85-2-316(7), MCA, and certified to the Board for resolution any issues as to the meaning of the Board's Orders. Such a process would be within the specific meaning and intent of Section 85-2-316(7), MCA, and within the meaning and intent of the reservation system taken as a whole.

Subdivisions around Billings will probably continue to opt to develop their own water systems due to the high cost of meeting the stipulations required for the use of the city's reserved waters. This development of municipal water supplies that are independent of the municipal reservations appears contrary to the intent of the Board when it established the municipal reservation. We believe the issues raised by these two applications require clarification by the Board and the establishment of guidelines for the allotment of a municipality's reserved waters.

APPENDIX A



United States Department of the Interior

GEOLOGICAL SURVEY

Water Resources Division
Federal Building, Drawer 10076
301 South Park Avenue
Helena, Montana 59626-0076

RECEIVED DEC - 3 1985

December 2, 1985

Mr. Fred Nelson
Montana Department of Fish,
Wildlife, and Parks
8695 Huffine Lane
Bozeman, Montana 59715

Dear Fred:

Enclosed are the tables of our discharge measurements through October; historic minimum monthly mean discharge for each month for the period of record through 1984 on Hanging Woman Creek, Otter Creek, and Pumpkin Creek; and percentile Q's using the HEC-4 adjustment to get 1934-82 flows for Bluewater Creek and Rosebud Creek.

If you need more information or have any questions, please let us know.

Sincerely,

James A. Hull

James A. Hull
Hydrologic Technician

Enclosures

Stream and location Clear Creek at Mouth near Roberts

Drainage area (mi²) 20.3 Lat. 45°22'26" Long. 109°08'44"

[illegible]

Stream and location Dry Creek at Mouth near Belfry

Drainage area (mi²) 43.3 Lat. 45°11'34" Long. 108°59'07"

[illegible]

Drainage area (mi²) 135 Lat. 45°23'54" Long. 109°32'16"

51

Drainage area (mi²) 79.9 Lat. 45°16'39" Long. 109°38'26"

91

Stream and location Butcher Creek below The Forks near Luther

Drainage area (mi²) 9.69 Lat. 45°17'25" Long. 109°28'41"

[illegible]

Drainage area (mi²) 15.1 Lat. 45°22'58" Long. 109°40'54"



Stream and location East Fishtail Creek at Mouth near Nye

Drainage area (mi²) 11.0 Lat. 45°22'56" Long. 109°40'51"

[illegible]

Stream and location Little Rocky Creek ab. F.S. Bdy. near Nye

Drainage area (mi²) 19.5 Lat. 45°23'31" Long. 109°45'25"

[illegible]

Drainage area (mi²) 32.7 Lat. 45°13'04" Long. 108°34'16"

21

Drainage area (mi²) Lat. 45°19'59" Long. 110°45'43"

22

[illegible]

Stream and location Middle McDonald Spring Creek near Pray

Drainage area (mi²) Lat. 45°29'45" Long. 110°34'59"

[illegible]

Stream and location South McDonald Spring Creek near Pray

Drainage area (mi²) Lat. 45°29'29" Long. 110°35'40"

[illegible]

Stream and location Armstrong Spring Creek near Livingston (O'Haire - Deputy Bdy.)

Drainage area (mi²) Lat. 45°33'11" Long. 110°35'24"

[illegible]

此後，我與沈鴻烈、陳立夫、張道藩、邵力子、陳布雷、蔣經國等，均曾與我交遊，並與我共事。我與沈鴻烈、陳立夫、張道藩、邵力子、陳布雷、蔣經國等，均曾與我交遊，並與我共事。

Blunwater Creek

EXCEED, PERCENT	DISCHARGE
10.	30.0
20.	29.0
30.	29.0
40.	29.0
50.	28.0
60.	28.0
70.	27.0
80.	27.0
90.	27.0

EXCEED, PERCENT	DISCHARGE
10	32.0
20	31.0
30	30.0
40	29.0
50	29.0
60	28.0
70	28.0
80	28.0
90	26.0

DISCHARGE	EXCEED PERCENT
31.0	10
31.0	20
30.0	30
29.0	40
29.0	50
28.0	60
28.0	70
27.0	80
27.0	90
27.0	

EXCEED, PERCENT	DISCHARGE
10.	31.0
20.	31.0
30.	30.0
40.	30.0
50.	29.0
60.	28.0
70.	28.0
80.	27.0
90.	26.0

EXCEED, PERCENT	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	27.0
DISCHARGE	30.0	30.0	30.0	29.0	29.0	28.0	28.0	28.0	28.0	27.0

EXCEED, PERCENT	DISCHARGE
10.	31.0
20.	30.0
30.	30.0
40.	29.0
50.	29.0
60.	29.0
70.	28.0
80.	27.0
90.	27.0

EXCEEDS PERCENT	DISCHARGE	31.0	31.0	30.0	30.0	30.0	29.0	29.0	28.0
10.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
20.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
30.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
40.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
50.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
60.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
70.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
80.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
90.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0
100.	31.0	31.0	30.0	30.0	30.0	29.0	29.0	29.0	28.0

EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.
DISCHARGE	31.0	30.0	29.0	29.0	29.0	28.0	28.0	27.0	27.0

EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	25.0
DISCHARGE	31.0	30.0	29.0	28.0	27.0	27.0	26.0	26.0	26.0	25.0

EXCEED, PERCENT	20.	30.	40.	50.	60.	70.	80.	90.	24.0
DISCHARGE	29.0	28.0	27.0	26.0	25.0	24.0	23.0	22.0	21.0

DISCHARGE	PERCENT	EXCEED
28.0	10	
27.0	20	
27.0	30	
26.0	40	
26.0	50	
26.0	60	
25.0	70	
25.0	80	
25.0	90	

EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	25.0
DISCHARGE	10.0	19.0	29.0	28.0	28.0	27.0	27.0	26.0	26.0	26.0

$\frac{8}{20}$

C. = FINCH

(7) = 0.9640, 1.0000

00619

Brackett Cr. RR. Clyde Park
1934-82

28-6561

1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000
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Rock Creek Sta 06-209500

EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 10
DISCHARGE	109.0	103.0	94.0	83.0	50.	77.0	72.0	69.0	63.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 11
DISCHARGE	71.0	68.0	62.0	56.0	54.0	52.0	51.0	48.0	42.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 12
DISCHARGE	50.0	47.0	45.0	44.0	50.	41.0	39.0	36.0	33.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 1
DISCHARGE	41.0	39.0	37.0	35.0	34.0	34.0	33.0	30.0	29.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 2
DISCHARGE	35.0	34.0	34.0	33.0	32.0	30.0	29.0	28.0	26.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 3
DISCHARGE	34.0	33.0	32.0	30.0	30.0	29.0	28.0	26.0	25.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 4
DISCHARGE	57.0	48.0	44.0	40.0	39.0	37.0	34.0	31.0	29.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 5
DISCHARGE	335.0	301.0	271.0	240.0	221.0	211.0	160.0	123.0	103.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 6
DISCHARGE	364.0	794.0	712.0	642.0	616.0	537.0	478.0	442.0	395.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 7
DISCHARGE	771.0	637.0	561.0	540.0	486.0	448.0	394.0	351.0	302.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 8
DISCHARGE	366.0	300.0	289.0	277.0	260.0	238.0	232.0	213.0	193.0	
EXCEED, PERCENT	10.	20.	30.	40.	50.	60.	70.	80.	90.	MONTH = 9
DISCHARGE	181.0	109.0	102.0	148.0	144.0	132.0	124.0	120.0	97.0	

STATION	RECORDED AND RECONSTRUCTED FLOWS	STATION	RECORDED AND RECONSTRUCTED FLOWS
1	12	1	12
2	11	2	11
3	10	3	10
4	9	4	9
5	8	5	8
6	7	6	7
7	6	7	6
8	5	8	5
9	4	9	4
10	3	10	3
11	2	11	2
12	1	12	1
13	0	13	0
14	0	14	0
15	0	15	0
16	0	16	0
17	0	17	0
18	0	18	0
19	0	19	0
20	0	20	0
21	0	21	0
22	0	22	0
23	0	23	0
24	0	24	0
25	0	25	0
26	0	26	0
27	0	27	0
28	0	28	0
29	0	29	0
30	0	30	0
31	0	31	0
32	0	32	0
33	0	33	0
34	0	34	0
35	0	35	0
36	0	36	0
37	0	37	0
38	0	38	0
39	0	39	0
40	0	40	0
41	0	41	0
42	0	42	0
43	0	43	0
44	0	44	0
45	0	45	0
46	0	46	0
47	0	47	0
48	0	48	0
49	0	49	0
50	0	50	0
51	0	51	0
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53	0	53	0
54	0	54	0
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90	0	90	0
91	0	91	0
92	0	92	0
93	0	93	0
94	0	94	0
95	0	95	0
96	0	96	0
97	0	97	0
98	0	98	0
99	0	99	0
100	0	100	0

[illegible]

1934-82

1288
1162
775
1070
710
1040
1165
1027

STATION NUMBER = 12

CLARKS FORK NEAR BELFRY
STA 06-207500

MONTH = 10	EXCEED. PERCENT	10.	462.0	357.0	316.0	30.	40.	294.0	50.	267.0	224.0	50.	70.	194.0	160.0	90.	117.0
MONTH = 11	EXCEED. PERCENT	10.	409.0	379.0	328.0	30.	40.	309.0	50.	285.0	268.0	60.	70.	251.0	225.0	80.	200.0
MONTH = 12	EXCEED. PERCENT	10.	333.0	314.0	296.0	30.	40.	262.0	50.	271.0	260.0	60.	70.	231.0	238.0	80.	229.0
MONTH = 1	EXCEED. PERCENT	10.	252.0	271.0	257.0	30.	40.	253.0	50.	242.0	226.0	60.	70.	225.0	209.0	80.	186.0
MONTH = 2	EXCEED. PERCENT	10.	291.0	257.0	251.0	30.	40.	241.0	50.	237.0	233.0	60.	70.	220.0	202.0	80.	194.0
MONTH = 3	EXCEED. PERCENT	10.	272.0	249.0	245.0	30.	40.	235.0	50.	225.0	221.0	60.	70.	216.0	206.0	80.	189.0
MONTH = 4	EXCEED. PERCENT	10.	307.0	289.0	254.0	30.	40.	339.0	50.	140.0	313.0	60.	70.	277.0	254.0	80.	250.0
MONTH = 5	EXCEED. PERCENT	10.	3029.0	2633.0	2192.0	30.	40.	2133.0	50.	1912.0	1615.0	60.	70.	1485.0	1178.0	80.	1062.0
MONTH = 6	EXCEED. PERCENT	10.	5753.0	5299.0	4689.0	30.	40.	4421.0	50.	4095.0	3753.0	60.	70.	3477.0	3101.0	80.	2783.0
MONTH = 7	EXCEED. PERCENT	10.	3888.0	3515.0	2840.0	30.	40.	2458.0	50.	2191.0	1736.0	60.	70.	1640.0	1512.0	80.	903.0
MONTH = 8	EXCEED. PERCENT	10.	1071.0	977.0	799.0	30.	40.	627.0	50.	530.0	491.0	60.	70.	423.0	372.0	80.	279.0
MONTH = 9	EXCEED. PERCENT	10.	553.0	476.0	414.0	30.	40.	342.0	50.	290.0	260.0	60.	70.	240.0	194.0	80.	160.0

25

005203-90 045

STATION NUMBER = 960

[illegible]

Hanging Woman Creek 6-307600

<u>Month</u>	<u>Historic</u>	
	<u>Minimum</u>	<u>CFS</u>
October	0.04	
November	0.18	
December	0.06	
January	0.30	
February	0.60	
March	0.66	
April	0.61	
May	0.52	
June	0.34	
July	0.01	
August	0.00	
September	0.00	

Otter Creek

6-307740

Historic
Minimum

Month

October	0.40
November	1.63
December	2.05
January	1.67
February	1.87
March	2.65
April	1.59
May	2.61
June	2.14
July	0.28
August	0.08
September	0.13

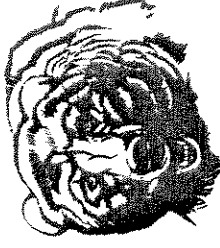
Pumpkin Creek

6-308400

<u>Month</u>	<u>Historic Minimum CFS</u>
October	0.00
November	0.00
December	0.00
January	0.00
February	0.00
March	0.01
April	0.00
May	0.00
June	0.00
July	0.00
August	0.00
September	0.00

APPENDIX B

Montana Department of Fish, Wildlife & Parks



1420 East Sixth Avenue
Helena, Montana 59620
July 2, 1985

Dear Water Permit Holder:

Current predictions indicate that flows will be unusually low this summer in many Montana streams. These low flows may cause inconvenience and hardship for persons dependent on that water for their livelihood as well as fish and other water-dependent wildlife.

Foreseeing such possibilities, the 1973 Montana Legislature passed the Montana Water Use Act, which established a process for reserving water in Montana's streams for future uses. Included was the opportunity to reserve instream flows for the protection of fish and wildlife habitats and the maintenance of water quality. In 1974-1978 this process was applied to the Yellowstone River and its tributaries, with the order allocating the flows among the various users signed on December 15, 1978. A significant portion of the flow was reserved for instream purposes. Consequently, Yellowstone drainage water permit holders having priority dates later than December 15, 1978 are subject to the minimum instream flows established by the reservation.

During this drought year, the Montana Department of Fish, Wildlife and Parks is requesting that all junior water users comply with the intent of the Yellowstone reservation and cease withdrawing water when flows drop below levels reserved for instream purposes. Ten USGS gauge sites within the Yellowstone drainage have been temporarily designated to monitor compliance with the terms of the instream reservation. The designated gauge for your diversion is listed on the enclosure. Also listed are the granted instream flows by month for this gauge site.

It is the responsibility of the permit holder to determine when the stream flow at the designated gauge falls below the granted instream flow. When this level is reached, junior permit holders are legally obligated to cease withdrawing water. Current stream flow information for your designated gauge can be obtained by calling the Water Rights Bureau field office in Billings (657-2105), Bozeman (586-3136), or Miles City (232-6359).

This letter is being sent to all water permit holders of record having permits junior to the instream flow reservation. While it is not our intent to cause undue hardship, it is incumbent upon us to protect the rights granted for the protection of fish, wildlife and water quality. Your adherence to the law and judicious use of water during this drought period will aid us in that endeavor.

Sincerely,


James W. Flynn
Director

bjm
Encl.

SHIELDS RIVER

INSTREAM RESERVATION

Shields River near Livingston (Gage #06195600)

Month	Cubic Feet Per Second (CFS)
January	26
February	29
March	44
April (1-15)	93
April (16-30)	39
May (1-10)	83
May (11-20)	137
May (21-31)	184
June (1-10)	189
June (11-20)	157
June (21-30)	105
July	22
August	13
September	13
October	30
November	27
December	31

YELLOWSTONE RIVER

INSTREAM RESERVATION

Yellowstone River near Livingston (Gage #06192500)

Month	Cubic Feet Per Second (CFS)
January	1,330
February	1,320
March	1,350
April	2,490
May (1-10)	2,500
May (11-20)	1,900
May (21-31)	4,700
June (1-10)	7,700
June (11-20)	9,000
June (21-30)	8,000
July (1-10)	5,400
July (11-20)	3,800
July (21-31)	2,500
August (1-10)	1,600
August (11-31)	2,125
September	1,555
October	2,350
November	1,790
December	1,490

YELLOWSTONE RIVER

INSTREAM RESERVATION

Yellowstone River at Billings (Gage #06214500)

Month	Cubic Feet Per Second (CFS)
January	2,483
February	2,484
March	2,883
April	3,580
May (1-20)	5,121
May (21-31)	12,200
June (1-7)	17,236
June (8-30)	18,716
July (1-10)	10,274
July (11-31)	4,000
August	3,500
September	3,107
October	3,573
November	3,478
December	2,781

STILLWATER RIVER

INSTREAM RESERVATION

Stillwater River near Absarokee (Gage #06205000)

Month	Cubic Feet Per Second (CFS)
January	200
February	205
March	210
April	225
May	560
June	2,075
July	1,030
August	480
September	480
October	380
November	225
December	225

BOULDER RIVER
INSTREAM RESERVATION
Boulder River at Big Timber (Gage #062000000)

Month	Cubic Feet Per Second (CFS)
January	80
February	80
March	80
April	80
May	300
June	1,690
July	490
August	60
September	95
October	130
November	80
December	80

YELLOWSTONE RIVER

INSTREAM RESERVATION

Yellowstone River near Sidney (Gage # 06329500)

Month	Cubic Feet Per Second (CFS)
January	3,738
February	4,327
March	6,778
April	6,808
May	11,964
June	25,140
July	10,526
August	2,670
September	3,276
October	6,008
November	5,848
December	3,998

BIGHORN RIVER
INSTREAM RESERVATION

Bighorn River above Tullock Creek near Bighorn (Gage #06294500)

<u>Month</u>	<u>Cubic Feet Per Second (CFS)</u>
January	3,300
February	3,200
March	4,000
April	3,600
May	3,800
June	5,200
July (1-20)	3,800
July (21-31)	3,200
August	2,800
September	2,600
October	2,700
November	3,100
December	3,200

TONGUE RIVER

INSTREAM RESERVATION

Tongue River at Miles City (Gage #06308500)

Month	Cubic Feet Per Second (CFS)
January	75
February	75
March	75
April	75
May	75
June	75
July	75
August	75
September	75
October	75
November	75
December	75

POWDER RIVER

INSTREAM RESERVATION

Powder River near Locate (Gage #06326500)

Month	Cubic Feet Per Second (CFS)
January	31.9
February	71.8
March	291
April	347
May	424
June	184
July	70
August	14.5
September	8.87
October	9.43
November	61.6
December	61

YELLOWSTONE RIVER

INSTREAM RESERVATION

Yellowstone River at Miles City (Gage #06309000)

Month	Cubic Feet Per Second (CFS)
January	3,829
February	3,998
March	6,359
April	5,848
May	12,280
June	26,188
July	10,278
August	3,862
September	4,338
October	5,849
November	5,508
December	4,009

APPENDIX C

Yellowstone Basin Flow Update

Date: August 22, 1985

Gage	Flow (cfs)	Instream Reservation (cfs)
Bighorn River above Tullock Cr., near Bighorn	1,730	2,800
Boulder River at Big Timber	163	60
Clarks Fork River near Belfry	-	-
Powder River near Locate	27	14.5
Shields River near Livingston	84	13
Stillwater River near Absarokee	460	480
Tongue River at Miles City	30	75
Yellowstone River near Sidney	5,480	2,670
Yellowstone River at Miles City	5,220	3,862
Yellowstone River at Billings	3,490	3,500
Yellowstone River near Livingston	2,370	2,125

APPENDIX D

Montana Department of Fish, Wildlife & Parks



1420 East Sixth Ave.
Helena, MT 59620
August 20, 1985

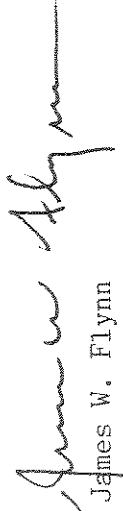
Dear Water Permit Holder:

The Montana Department of Fish, Wildlife and Parks and Department of Health and Environmental Sciences/Water Quality Bureau are again notifying junior permit holders in the Yellowstone Basin that water withdrawals must cease when flows are less than the instream flows granted in the Yellowstone water reservations of December 15, 1978. In our letters of July 2, 1985 and July 24, 1985, respectively, each junior permit holder was referred to a specific USGS gage to monitor flows and provided a list of the granted instream flows for that gage.

The Yellowstone River and several of its major tributaries are presently experiencing low flows which will adversely affect the fish, wildlife, and recreational resources and impair water quality. By copy of this letter, you are informed that streamflow levels have dropped below the granted instream flows at the gage assigned to monitor water availability for your junior water permit. In the event you have not already ceased withdrawing water, you are required to do so at this time.

This letter is being sent to all water permit holders of record having permits junior to the instream flow reservation for these streams where flows are below the granted instream flows. While it is not our intent to cause undue hardship, it is incumbent upon us to protect the rights granted for the protection of fish, wildlife and water quality. Your adherence to the law and judicious use of water during this drought period will aid us in that endeavor.

Sincerely,


James W. Flynn
Director

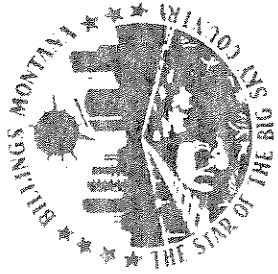
Department of Fish, Wildlife & Parks



Dr. John J. Drynan
Director
Department of Health & Environmental Sciences

JWF/LGP/sk

APPENDIX E



CITY OF BILLINGS
PUBLIC UTILITIES DEPARTMENT

RECEIVED

P.O. BOX 30858
BILLINGS, MT 59111
PHONE (406) 657-8305

NOV 26 1985

FISHERIES DIV.

November 13, 1985

Mr. Henry Lindgren
4408 Bowman Drive
Billings, MT 59101

re: CEDAR PARK SUBDIVISION -
WATER USE PERMIT APPLICATION
WITH DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION

Dear Henry:

As you requested, we recently met with various officials of the Department of Natural Resources and Conservation (DNRC) here in Billings and discussed your application for a water use permit with them. Our attorneys have also studied this matter.

Consequently, we are now in a position to recommend to the City Administrator and City Council that the City offer a sale of untreated water to your subdivision, subject to the following conditions:

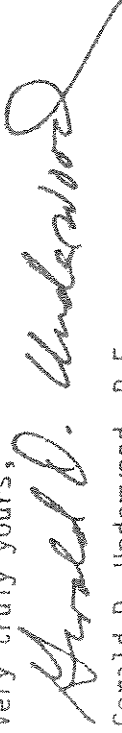
1. The maximum amount of untreated water to be sold to your subdivision is 200 gallons per minute. For this amount we will charge a nominal fee of about \$100 per year. We will accomplish the sale by written agreement, which will have a term of 5 years and be re-negotiated at the end of that time.
2. The sale of water will be under the City's water rights and not under its water reservation. (This offer by the City is restricted solely to a sale of a quantity of water under the City's water rights, and it does not involve any rights relating to reservation of water under the Montana Water Use Act of 1973.)
3. If such is required by DNRC, your subdivision will be responsible for filing with them an application for an additional point of diversion to take water from the Yellowstone River under the City's water rights.
4. Your subdivision will be responsible for constructing your own diversion, treatment, transmission, storage and distribution facilities. The cost of constructing all such facilities will be borne by your subdivision, not the City.
5. The sale of untreated water will be subject to the condition that one hundred percent of the owners of property in your subdivision file a waiver of their right to protest annexation to the City of Billings as well as any other conditions deemed appropriate by the City Council.

Henry Lindgren
September 13, 1985
Page Two

6. Your subdivision will not obtain under the water sale agreement any license, conveyance, or other interest whatever in the City's water rights, and of course not any interest in the City's water reservation either.
7. Your subdivision must use the purchased water only for municipal purposes.
8. Your subdivision must construct its water facilities in accordance with the standards of the State Department of Health and Environmental Sciences. In addition, your subdivision must assume full legal and operational responsibility for its water facilities as a privately owned system. Further, your subdivision must hold the City harmless from any and all claims and liabilities.
9. This sale of untreated water does not obligate the City to provide any other service to your subdivision, nor does it constitute the inclusion of your subdivision within the City's water service area.
10. This sale of untreated water is also conditioned upon your subdivision's keeping the City fully informed about all matters that may impact in any way the City's water rights and/or water reservation.

If the above terms and conditions regarding the sale of untreated water are agreeable to your subdivision, please so advise me and I'll draft a water sale agreement incorporating such terms and conditions therein and submit it to the City Administrator and City Council for their review and consideration.

Very truly yours,



Gerald D. Underwood, P.E.
Public Utilities Director

GDU:slh

cc: Mr. Calvin Calton
File