

**U.S. Bureau of Land Management – Montana Water Rights Compact  
For the UPPER MISSOURI NATIONAL WILD AND SCENIC RIVER and  
BEAR TRAP CANYON PUBLIC RECREATION SITE**

## **INTRODUCTION**

The Montana Reserved Water Rights Compact Commission (RWRCC) was created by the Montana Legislature in 1979 to act of behalf of the State and its water users to negotiate federal reserved water rights associated with reserved federal land. The process of settling federal reserved water rights is part of the state-wide water adjudication. A federal reserved water right is created when an Act of the U.S. Congress or a Presidential Executive Order or Proclamation sets aside federal land from the public domain for a specified purpose. The water right then carries the priority date of the Act or authorization that reserved the land, even if the water for the federal land was not put to use at that time. The amount of water to which a reservation is entitled depends on the purpose for which the land was reserved. By state law a negotiated settlement must pass the Montana Legislature, be signed by the appropriate federal officials, and go through a final objection process in Montana Water Court. If all objections are resolved in Water Court, the Court issues a decree in each basin, integrating state and federal water rights.

## **COMPACT AGREEMENT**

This Compact between the State of Montana and the U. S. Department of the Interior, Bureau of Land Management (BLM) settles the reserved water rights for the Upper Missouri National Wild and Scenic River and the Bear Trap Canyon Public Recreation Site. The Compact passed the Montana legislature in 1997 and was signed by federal officials on September 10, 1997. Mont. Code Ann. § 85-20-501 (2007). The Montana Water Court issued their approval in May 2011.

### **1. Upper Missouri National Wild and Scenic River.**

Designated by Congress as a component of the Wild and Scenic River System on October 12, 1976, the designation includes 149 miles of the Missouri River corridor from Fort Benton downstream to Fred Robinson Bridge.

The RWRCC and the BLM were unable to agree on primary purposes for quantification of the reserved water right, but agreed that when Congress designated the Wild and Scenic River it anticipated that future State development would occur. Therefore, the Compact:

- Sets aside a large volume of water by month to meet future State demands. This volume is sufficient to irrigate approximately 100,000 acres of new direct-flow full-service irrigation and municipal and industrial needs plus approximately 500,000 acre-feet of new storage. Domestic, small groundwater, non-consumptive, supplemental, lawn and garden, instream stock uses, late claims, and other federal and Indian reserved water rights are not counted against the State's available water supply. Once the State has exhausted the available water supply, the basin above the downstream boundary of the Upper Missouri National Wild and Scenic River will be closed to new appropriations for that month. The reserved water right for instream flow is limited to the water left after the State's future development.
- Protects all existing water rights, permits and water reservations.
- No new impoundments on the mainstem Missouri River without U.S. consent.
- BLM will have not standing to object to new appropriations or changes in appropriation.
- No appropriations will have terms, conditions, or limitations as result of this agreement.
- BLM cannot make a call on the Missouri River to require junior users to let water pass.

### **2. Bear Trap Canyon Public Recreation Site.**

Set aside by the Secretary of the Interior on June 9, 1971, pursuant to authority granted by Presidential Executive Order. The public recreation site is located in the Madison River corridor directly below Ennis Lake.

- The reserved water right is for 1,100 cfs year round for instream flow with a June 9, 1971 priority date.
- Montana Power Company's successor PPL Montana operates Madison Dam at Ennis Lake and is required by licensing agreement to make a minimum release of 1,100 cfs.