

Flathead Joint Board of Control of the Mission, Jocko and Flathead Irrigation Districts
Regular Meeting Minutes
January 26th, 2016

Present:

Jocko: Boone Cole, Dean Brockway

Mission: Jerry Laskody, Tim Orr, Gene Posivio

Flathead: Wayne Blevins, Shane Orien, Richard Erb, Paul Guenzler, Bruce White

Member at Large: Ted Hein

Attorney of Record: Kristin Omvig, Bruce Fredrickson

Staff: Johanna Clark

Executive Session was held from 1:00 p.m. to 3:00 p.m.

CTO: 3:06 p.m.

Pledge of Allegiance was conducted.

Agenda was approved as presented.

Agenda Item #1: FERC Settlement Conference Update.

Chairman Boone Cole provided a brief history of recent events related to FERC. Chairman Cole reminded the public of the confidentiality requirements during negotiations, adding that additional proposals will be due on Friday with an official response due shortly thereafter. Commissioner Jerry Laskody questioned if any topics could be discussed openly without compromising legal positions. Chairman Cole responded that it is his opinion that this board (FJBC) is fighting for everything that we believe the irrigators/ public have coming to them. Commissioner Wayne Blevins commented that most recent negotiation sessions on behalf of the irrigators/public were quite lengthy. (RMLP (legal counsel) were brought into the meeting by teleconference.)

Agenda Item #2: C.I.T.T.

Chairman Boone Cole commented that it had come to his attention that a meeting of the C.I.T.T. had taken place and questioned Commissioner Richard Erb as to the date. Commissioner Erb responded that he believed the date to be December 3, 2015. Chairman Cole commented that the State failed to notify the board or the public of the meeting and being the Commissioner Erb had attended the meeting, Chairman Cole requested the Commissioner Erb provide an update of discussions and/or any action that took place. Commissioner Erb, without his notes from the meeting could not provide an accurate report.

Commissioner Shane Orien questioned why Commissioner Erb was the only board member notified of the C.I.T.T. meeting. Commissioner Erb responded that he had no knowledge of why no one else was notified and that he believed others were aware of the scheduled meeting. Commissioner Orien responded that in cases like this, it is advisable to send an email to fellow commissioners in matters of board interest such as the C.I.T.T. Chairman Boone Cole commented that the FJBC, a municipal government entity, explicitly requested that it be notified of upcoming C.I.T.T.

meetings/events and through correspondence and discussion, was denied. Member at Large, Ted Hein questioned Commissioner Richard Erb as to where the meeting was held, who was there and what was discussed to the best of his recollection, adding, why didn't Commissioner Erb inform the board. Commissioner Erb responded that he would have to look into why other board commissioners were not notified and that he did not believe it to be his responsibility to inform anyone else due to believing the board had been contacted. Commissioner Erb believed there had been commissioner complaints that the C.I.T.T. meeting was taking place on the same day as a court hearing.

Member at Large, Ted Hein questioned where the meeting had taken place. Commissioner Erb responded that it was at the Tribal Athletic Center (Pablo, Montana) and offered to report on the meeting. Commissioner Erb's report is as follows:

" ... went through the morning, started around 9:00 a.m. It had technical people, they were all technical people. From DOI, from Portland...Ethan Mace and also Seth Makepeace. It was chaired by a convener. I forget his name. He chaired the Compact discussions. Most of the meeting was focused on discussing procedure, including setting up a website. I checked last night and could not find it. I understand that there is going to be a website and they intend to put everything on there. That is consistent with what was said when this was discussed during the compact meetings. This would be an open process. Most of the meeting was on procedure. They talked about three areas. I am trying to remember who exactly had what responsibility but one area which received most of the discussion was the desire to improve measurement and spend some of the money that is allocated to this purpose to putting in some measurement systems. Not just where they had been in the past, some have been cut off by the Federal Government. They want to substitute those and they are thinking about locating measurement devices around the project. One of the problems certainly many of us have had is that there are just two places in St. Ignatius where data is collected. There was a lot of discussion about that, not surprising. They talked about focusing on... working with ranches to deal with the issue of stock water and how technically that can be dealt with in the future.

...what will be ways of more precise ways of, more precisely than has been discussed in the past, ways of substituting stock water through wells verses the current approach of using in-stream flows for stock water. DOI, I missed part of the conversation due to being out of the room at that time, has been doing, BIA rather, wanted to focus on major project improvements and that is the general task they were to come back and report. So in each of these areas there was not a lot of general discussion. The emphasis is on and I would encourage, finding ways of improving the project irrespective of whether the Compact goes ahead or not. There is a need for better measurement and improvement in the project. I am not sure when they are going to have another meeting. As a Commissioner of the FID for my division which include Charlo and Moiese area, there are some major areas that they need to look at to put more detail on the studies that were done in 2005 by HKM....."

Commissioner Richard Erb went on to discuss areas within his division that were in need of maintenance. Member at Large Ted Hein questioned who Commissioner Erb represented during the meeting due to one irrigator (Stanley Speaks letter) supposed to have been appointed to represent the project irrigators. Member at Large Ted Hein questioned if the State had intended Commissioner Erb to be that appointed individual or if Commissioner Erb had gone as a member of the public. Commissioner Erb responded that he did not believe that to be the case and that he went on his own and as a Commissioner of the Flathead Irrigation District and in his opinion, that is his job as a commissioner.

Commissioner Bruce White questioned why only Commissioner Erb was the only one from the board or the public notified and why did the C.I.T.T. not publicize its intent to meet as per open meeting laws in the newspaper. Commissioner Richard Erb responded that he had no knowledge as to why events transpired the way they did. Commissioner White questioned how Commissioner Erb was notified. Commissioner Erb responded that he was contacted by email. Commissioner Paul Guenzler thought that the C.I.T.T. meeting had been discussed at an earlier meeting.

Board Commissioners in unison responded that no such discussion had ever taking place. Commissioner Jerry Laskody commented that there seems to be a confusion over WPIC meetings occurring the same day as FERC negotiations. Commissioner Tim Orr commented that it was he that requested this topic on the Agenda and his frustration with the board not appointing a member under protest to the C.I.T.T. Commissioner Orr would like to draft a letter to various State officials due to the violation of the Montana Open Meeting law and that a complaint needs to be filed. Commissioner Orr discussed his frustration with the blatant violations over a period of years, of the laws of this State.

- **Commissioner Tim Orr moved to appoint/nominate Wade Shepard “under protest” to attend the C.I.T.T. and to have a letter drafted to the State stating the position of the board of the public regarding the perceived violation of the Montana’s Open Meeting laws. Motion was seconded by Member at Large Ted Hein.**

Commissioner Shane Orien questioned Attorney of Record Kristin Omvig’ opinion. Kristin responded that legal counsel was supportive of board action as saw no liability. Commissioner Jerry Laskody commented that the Compact stated that the C.I.T.T. would hold public meetings and that they are supposed to be following the law. Commissioner Shane Orien commented that if this committee did not intend to follow State law, what makes the public believe they will follow the terms of the Compact, adding that this action will hopefully provide much needed information to the board and public. Chairman Boone Cole questioned if there was a record of the December 3rd meeting. Commissioner Tim Orr responded that approximately 5 hours of recorded minutes disappeared to what had been explained as technical difficulty. Commissioner Gene Posivio questioned Commissioner Richard Erb if the members of the C.I.T.T. was being compensated in any way. Commissioner Erb responded that once again he had no intimate knowledge of the administration of the committee.

Public Comment: Gene Erb questioned how the members were appointed and that he believed they should be elected. Carol Lyons questioned if any other members of the public were in attendance. Commissioner Richard Erb responded that Representative Daniel Salomon was also present for the C.I.T.T. meeting. John Swenson stated his support for the current motion on the table.

- **Chairman Boone Cole called for a vote on the current motion for consideration.**
- **Commissioner Tim Orr moved to appoint/nominate Wade Shepard “under protest” to attend the C.I.T.T. and to have a letter drafted to the State stating the position of the board of the public regarding the perceived violation of the Montana’s Open Meeting laws. Motion was seconded by Member at Large Ted Hein.**
- **Motion carried unanimously.**

Commissioner Richard Erb commented to the board/public his frustration with being questioned about attending a meeting, stating that he had been doing so since 1999. He went on to state that in the many meetings he had attended since 2001, none of the current board members or members of public had been in attendance and he often wondered why. Commissioner Erb offered no apology for attending any meeting as it relates to current water issues, stating his intent to remain involved as he has historically done. The board discussed a public meeting of the FJBC in which Member at Large Ted Hein and Commissioner Erb were in attendance. It was believed that previous version of the Compact was pressured to be approved. Commissioner Erb believes that his letters to the editor are part of the reason for the many members of the community to become involved in Compact discussions.

Ray Swenson questioned if the FJBC was going to contact Stanley Speaks and others to assist in getting Wade Shepard to the public meetings. Chairman Boone Cole responded that it was this boards intention to do as much as possible to support Wade Shepard in his responsibility. Commissioner Wayne Blevins questioned Commissioner Richard Erb's statement, asking if Erb was supportive of transparency, why did he not report the C.I.T.T. meeting to this current board over the December 2015 meetings in which the C.I.T.T. was an agenda discussion item. Commissioner Richard Erb responded that he would need to verify dates of the FJBC meetings Commissioner Blevins was referring to and that he had been supportive of the current board appointing a representative. Commissioner Erb went on to comment that he did not think it was necessary for him to report for multiple reasons.

Commissioner Erb commented that FJBC email lists were not being utilized correctly and that various irrigators were not receiving updates and/or notifications, meeting notices are being sent out to Commissioners and/or public with minimal notice (48 hours) and that the budget and bills need to be reviewed far more regularly.

Agenda Item #3: O/M Payments to the Flathead Irrigation Project/BIA

Commissioner Shane Orien wanted it placed on record that the family discussed in previous meetings that had damage to their residence from project water had exhausted all measures with project and BIA officials. The family has been denied any form of financial relief for flooding due to poor project maintenance.

Billing statements received from the Flathead Irrigation Project directed to the individual irrigation districts were reviewed by the board. Commissioner Tim Orr reminded the board and legal counsel that the board was still awaiting documented financial accountability for the tax payer's funds as well as a hydrology report. Attorney of Record Kristin Omvig recommended that the board release finds for the billing and continue to explore methods to acquire the requested information. The public commented that they have the right to know what maintenance is being performed and what cost associated.

- **Commissioner Shane Orien motion to submit warrants on behalf of the separate irrigation districts and was 2nd by Commissioner Wayne Blevins.**
- **Chairman Boone Cole called for a vote on the motion for consideration. Motion carried. Commissioner Tim Orr and Commissioner Dean Brockway against.**

Commissioner Shane Orien reminded the Board that there was still an issue of project tax payers not receiving the product in which they are paying annually for as well as recommending that the board review accounting reports from the three counties to ensure that sufficient funds were available.

Agenda Item #3: Election/Re-Election Scheduling and Deadlines

Chairman Boone Cole listed the commissioners that were up for re-election in 2016 adding that filing deadline was February 8, 2016 with the Lake County Elections Office located in Polson, Montana.

Agenda Item #4: Litigation Update

Attorney of Record Kristin Omvig provided a brief litigation update to the Board and public.

Public Comment:

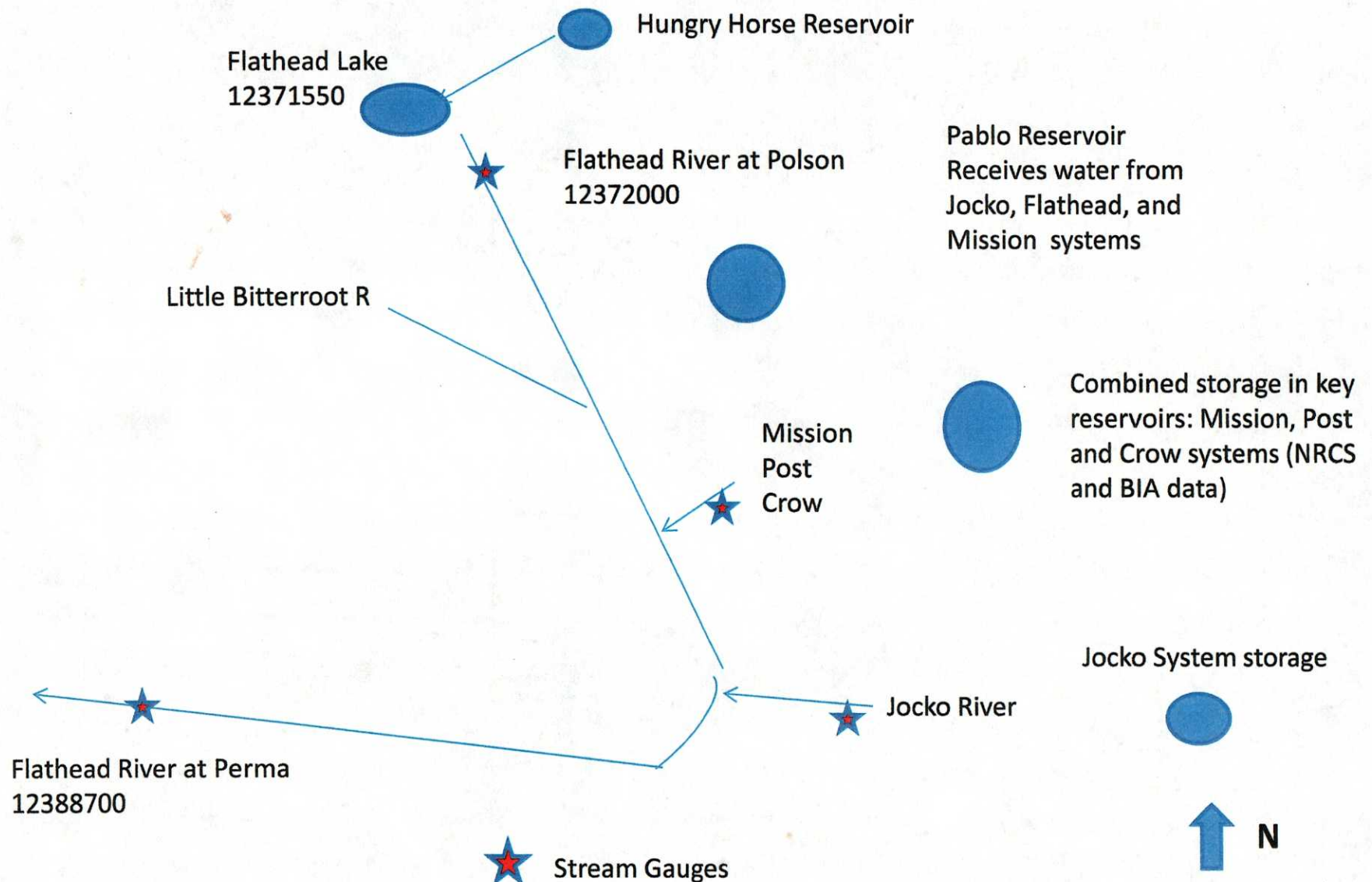
Kate V. presented a handout to the board and public describing current watershed analysis information. (Flathead River etc.) Kate recommended that the board encourage water storage right now due to low snow and moisture levels predicted for spring run-off. David P. updated the board on Density issues being reviewed by the Lake County Commissioners and recommended that board and public contact the commissioners directly.

Commissioner Shane Orien requested that the board consider hiring a FJBC board payed ditch rider to assist in documenting water delivery and various other issues that may arise. Commissioner Orien would like the issue placed on the agenda for further discussion. Giles Gordon communicated his support in such board action. Commissioner Shane Orien briefly described the sever issues he and his family had experienced with an intentional lack of water delivery to his land parcels. Commissioner Richard Erb commented his agreement for the need of a neutral third-party ditch rider that could report to the FJBC and legal counsel. Commissioner Bruce White stated his agreement and recommended that the board consider such action as soon as possible. Wade Shepard commented that finding an individual would be more difficult due to the expanse of the irrigation project and the knowledge needed to know how it is supposed to operate. Shepard also stated that legal access would be an issue for the individual hired.

Michael Gale recommended that there be a central process set into place that allows irrigators to contact and keep a record of events within the irrigation project.

Meeting was adjourned at 4:45 p.m.

**Figure 1. Schematic of Study Area Showing Flathead River
U.S.G.S. and NRCS Gauge Station Locations January-August 2015**





USGS Home
Contact USGS
Search USGS

National Water Information System: Web Interface

[USGS Water Resources](#)

Data Category:

Current Conditions

Geographic Area:

Montana

GO

Click to hide News Bulletins

- August 8, 2013
- Try our new [Mobile-friendly water data site](#) from your mobile device!
- New improved user interface.
- [Full News](#)

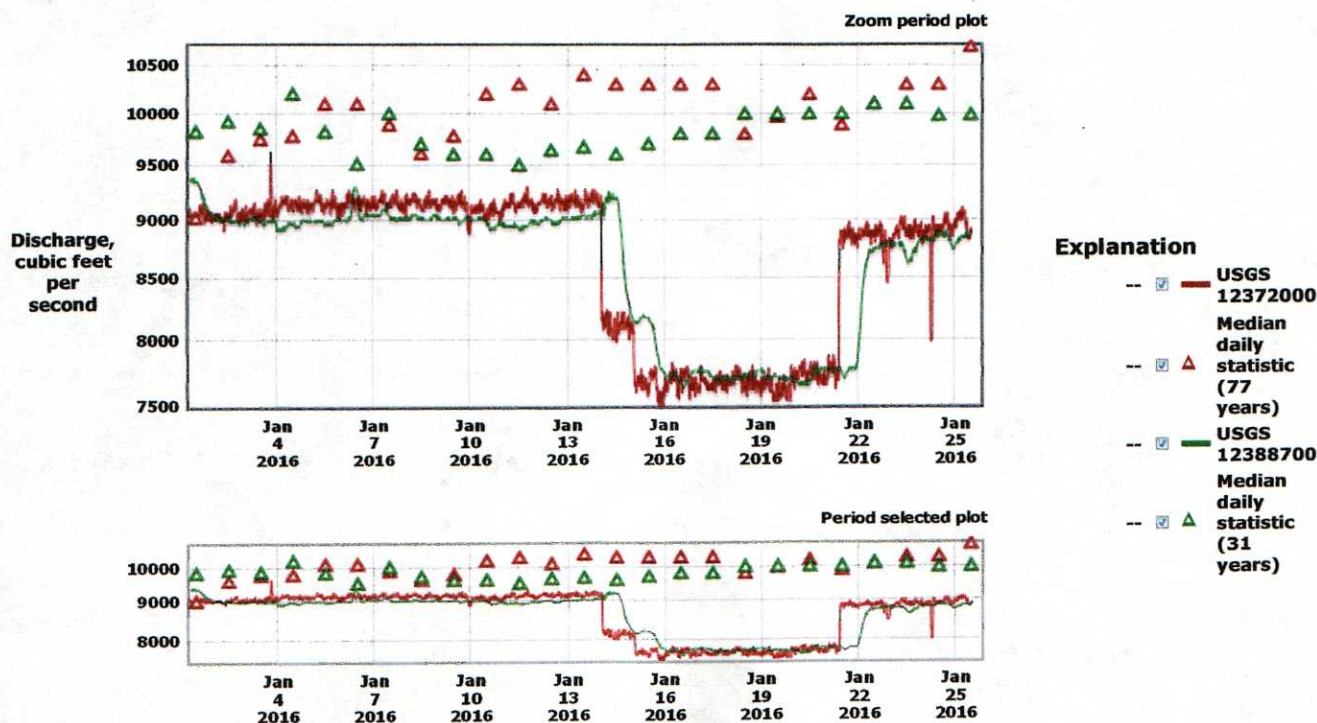
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MONTANA

PROVISIONAL DATA SUBJECT TO REVISION

Selected Sites	Available Period	Output format	Days (24)	
<input checked="" type="checkbox"/> 12372000	2007-10-01 2016-01-25	<input type="radio"/> Graph	-- or --	GO
<input checked="" type="checkbox"/> 12388700	2007-10-01 2016-01-25	<input type="radio"/> Graph w/ stats	Begin date	
		<input type="radio"/> Graph w/o stats	2016-01-01	
		<input type="radio"/> Graph w/ (up to 3) parms	End date	
		<input type="radio"/> Table	2016-01-25	
		<input type="radio"/> Tab-separated		

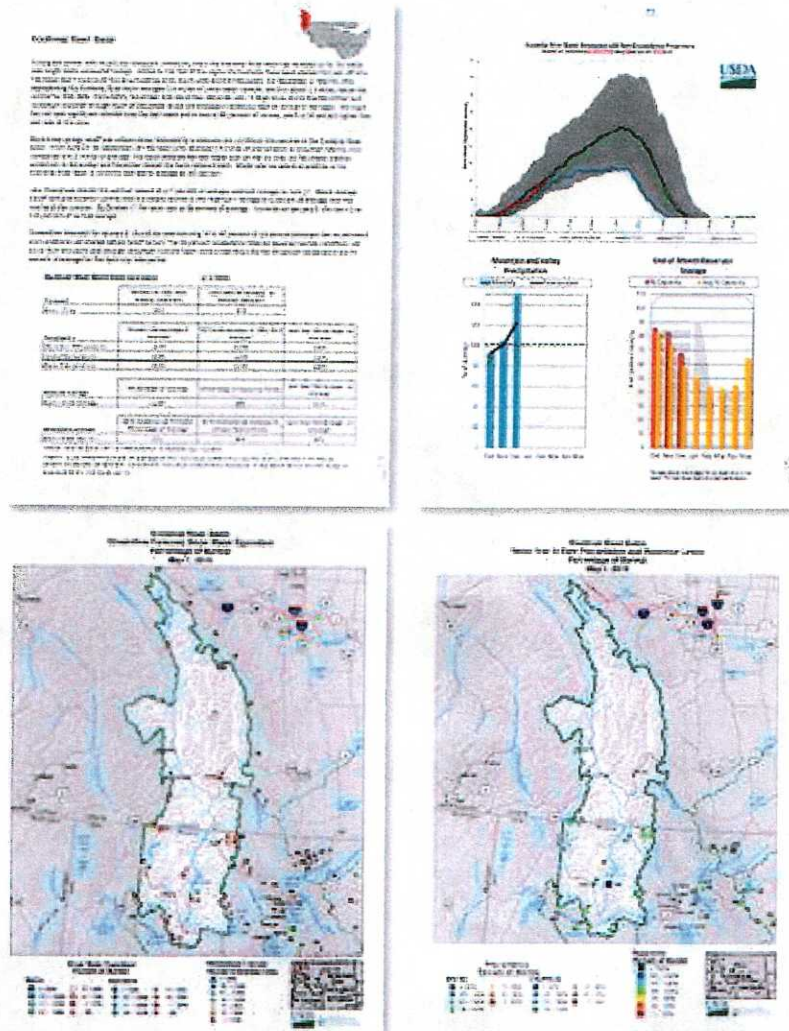
USGS 12372000 Flathead River near Polson MT USGS 12388700 Flathead River at Perma MT



Montana

Water Supply Outlook Report

January 1st, 2016



The Montana Snow Survey staff has worked hard over the last few months to reformat the Water Supply Outlook Report in order to provide more information to our water users in the state. We are pleased to release the first report of 2016 in the new format which includes additional graphical information for snowpack, precipitation, reservoir and streamflow forecasts for all of the major river basins that feed Montana's rivers. The report still includes the targeted basin narratives that have always been delivered. Online versions of all the new maps can be found here: [Montana State Library](#). For comments or questions on the report please contact [Lucas Zukiewicz](#), water supply specialist.