



COMPREHENSIVE WATER REVIEW

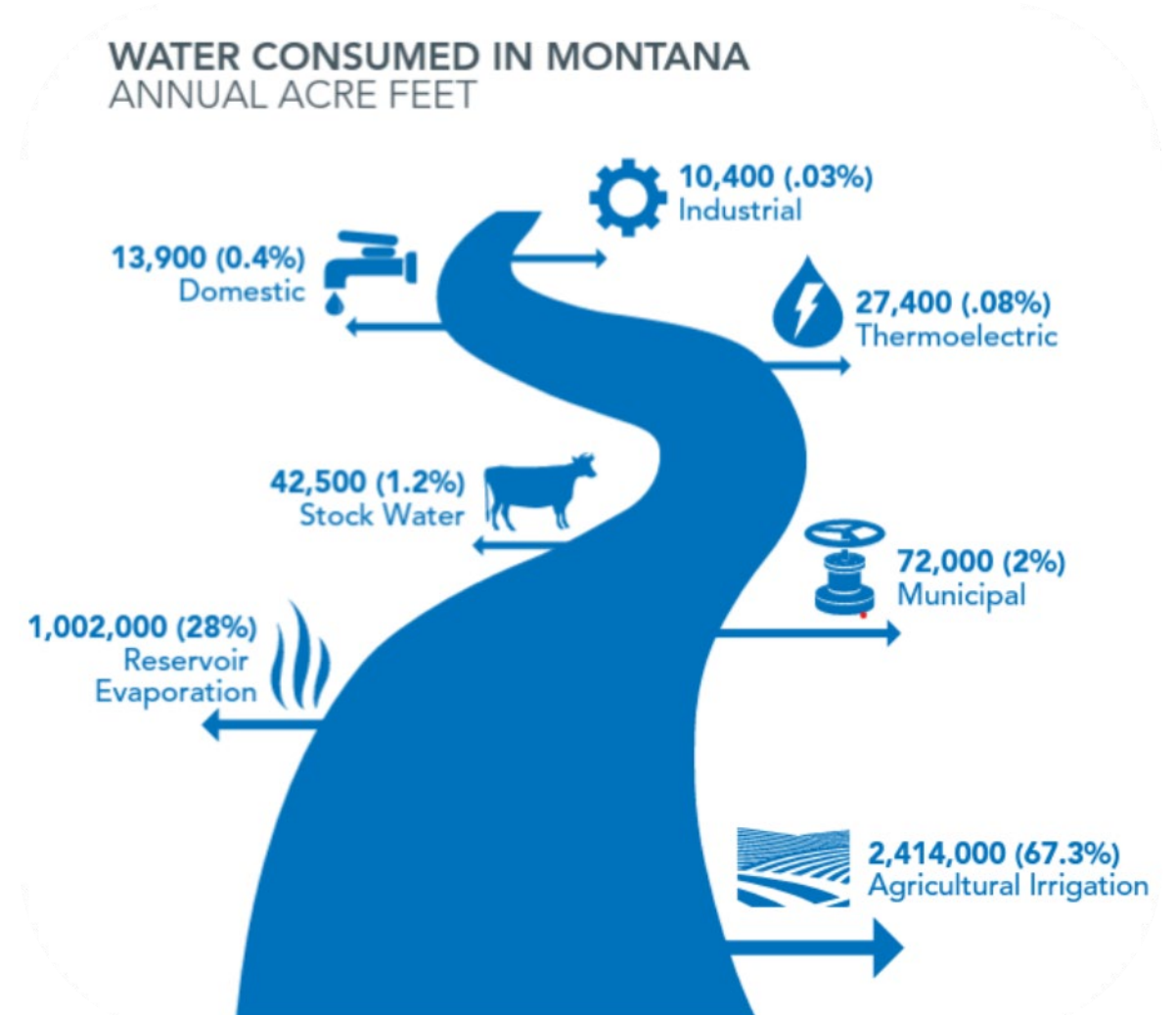


1. Alignment of Provisional Water Rights with Final Decrees
2. Waiver of Adverse Effect
3. Exception to the Change Process



STAKEHOLDER WORKING GROUP

- Vicki Baker (irrigation)
- Jocelyn Cahill (irrigation)
- Krista Lee Evans (irrigation)
- Spencer Woith (domestic, new development)
- Mark Taylor (domestic, new development)
- Kelly Lynch (municipal)
- Brian Heaston (municipal)
- Nicole Rolf (stock water)
- Raylee Honeycutt (stock water)
- Jan Thomson-Rouse (hydropower)
- Alan Olson (industrial)
- Arnold Bighorn (tribal)
- Andrew Gorder (conservation)
- Clayton Elliott (recreation)
- Abby Brown (attorney, multiple)
- Ryan McLane (attorney multiple)
- Julie Merritt (consultant multiple)

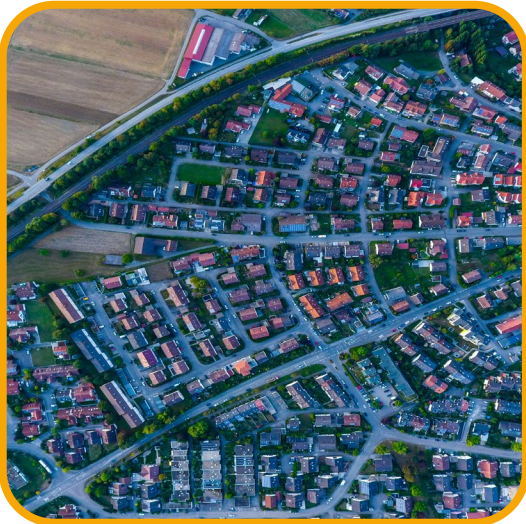


TOPICS OF THE COMPREHENSIVE WATER REVIEW



Final Decree Transition

How do we transition from statewide water adjudication to long-term administration of water rights?



Water Planning, Growth, and Exempt Wells

How do we meet our new water demands while protecting existing water rights?

FINAL DECREE TRANSITION

Bill 1: Efficient Administration of Water Rights

Bill 2: Alignment of Provisional Water Rights with Final Decrees

PLANNING, GROWTH, AND EXEMPT WELLS

Storage:

Funding 1: Montana Water Development Fund

Mitigation & Change Process:

Bill 3: Waiver of Adverse Effect

Bill 4: Exception to the Change Process

Public Water and Sewer:

Funding 2: Incentivizing Connection to Public Water and Sewer

Exempt Wells:

Bill 5: Water Rights and Subdivision Coordination

Bill 6: Exempt Wells



FINAL DECREE TRANSITION

How do we transition from statewide water adjudication to long-term administration of water rights?



ADJUDICATION AND NEW APPROPRIATION



July 1, 1973

Adjudication

- The Montana Water Court adjudicates existing rights by basin and issues final decrees, recognizing and confirming water rights developed *prior to July 1, 1973*.
- **DNRC provides technical assistance to the Water Court.**
- Process has been far more expensive and time consuming than contemplated, but all summary reports scheduled to be delivered to Water Court by June 30, 2025.

New Appropriations

- New water rights, *since July 1, 1973*, and changes to all existing water rights are administered by the DNRC through a permitting process.

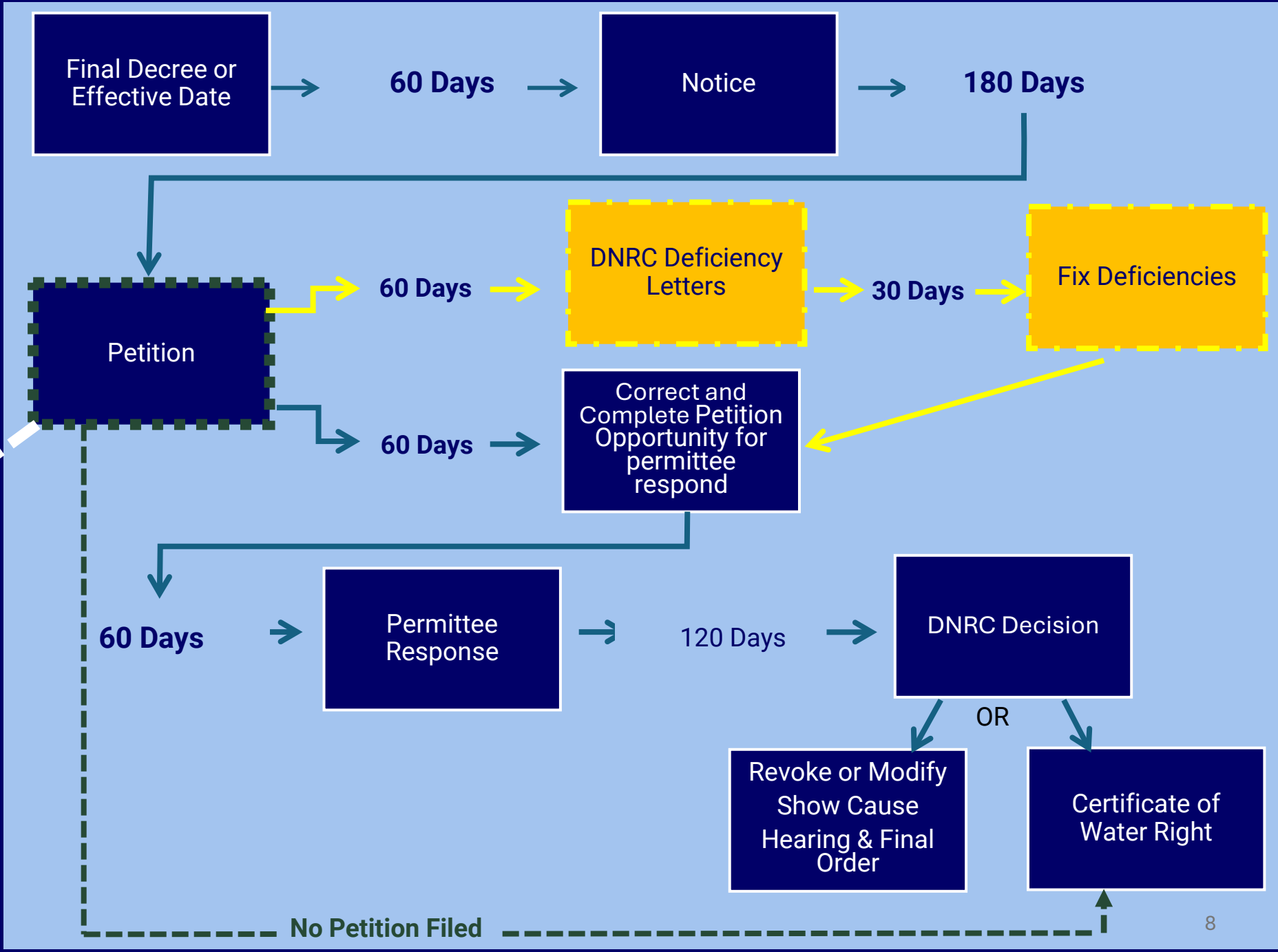
BILL 2: ALIGNMENT OF PROVISIONAL WATER RIGHTS WITH FINAL DECREES

Summary:

- ***The Water Use Act*** provided that post-1973 changes could be authorized, and permits could be issued by DNRC prior to final adjudication of existing water rights.
- **~4,900 changes** issued prior to final decree, which may be inconsistent with the adjudicated water right.
- **~12,000 permits** have been issued since 7/1/1973 that are subject to the final degree.
- **Clear and transparent process** to ensure that water right change authorizations and provisional permits are consistent with final decrees.
- **Certainty and finality** for provisional permit and change to receive certificates of water rights.

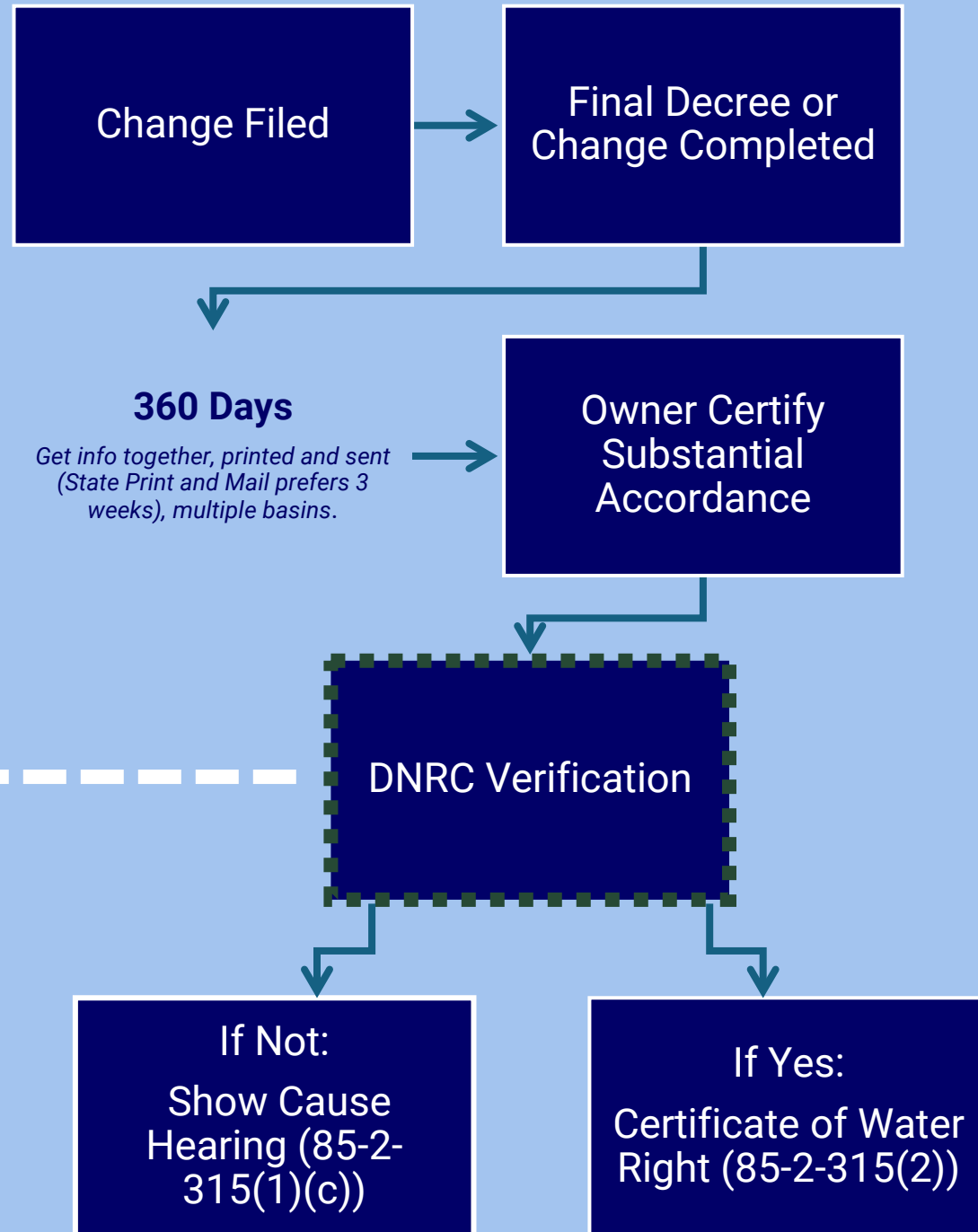
PROVISIONAL PERMITS

1. Existing Water Right Holders.
2. Preponderance of evidence.
3. Necessary to protect the petitioner's existing water rights.
4. Permit would have been denied/modified if the FD available.
5. Legal Availability.



CHANGES

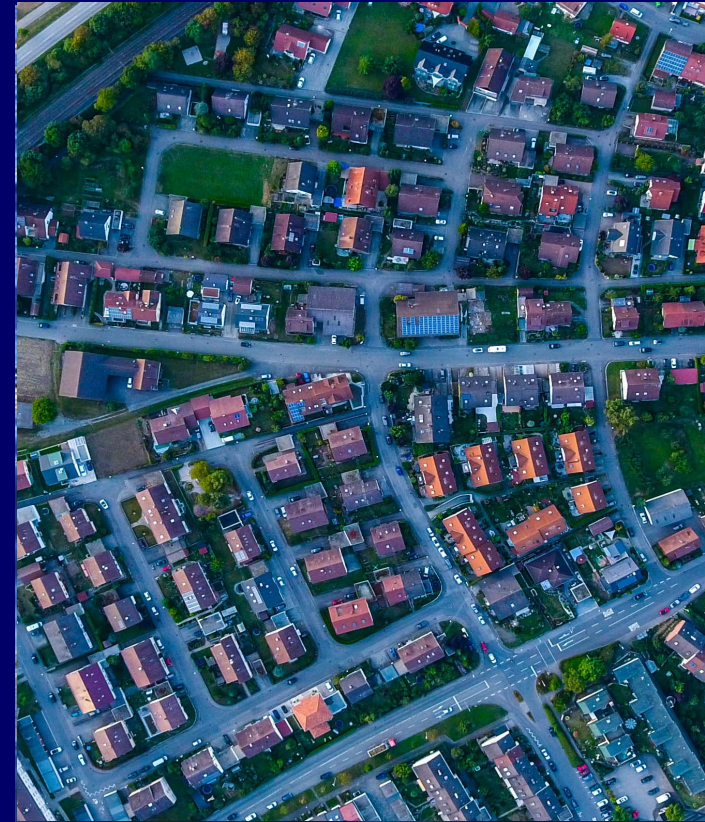
1. Accordance with the terms of the application (85-2-402(9)).
2. Accordance with the final decree (85-2-402(9)(a)).





PLANNING, GROWTH AND EXEMPT WELLS

How do we meet our new water demands while protecting existing water rights?



HOLISTIC POLICY AND FUNDING PACKAGE



MITIGATION & CHANGE PROCESS



- **Issue:** How can we create more accessible and meaningful mitigation to meet growing water needs?
- **Bill 3:** Waiver of adverse effect.
- **Bill 4:** Exception to the change: Municipal Place of Use, Stock Tanks, and Replacement Wells.

BILL 3: WAIVER OF ADVERSE EFFECT

- **Streamlines** the water rights permit and change process.
- Reinstates the Waiver of Adverse Effect that sunset last session.
- Someone can opt-in to remove their water right from consideration in the Adverse Effect Analysis (Not legal availability).

BILL 4: EXCEPTION TO THE CHANGE PROCESS

1. Simplifies **replacement wells** by changing flow rate/volume limitations to proximity (200ft) (more meaningful for ensuring no adverse effect).
2. Creates **process for expanding place of use** for municipalities and county water/sewer districts.
Only:
 - Unperfected provisional permits & reservations.
 - Same flow rate and volume .
 - Within the boundaries of the growth policy.
3. Creates **exception for adding stock tanks** to stockwater right.
 - Not exceed the historical flow rate, volume, or number of stock.

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ADDITIONAL INFORMATION: dnrc.mt.gov/water-resources

December 12, 2024, 12 p.m.-1 p.m.

- **Future Role of the Judiciary in Water Proceedings**

December 19, 2024, 12 p.m.-1 p.m.

- **Water Rights and Platting Act Coordination Bill**
- **Exempt Well Controlled Groundwater Areas**

