

## WATER COURT REPORT TO WPIC AND EQC JULY 2014

### Status of Interim Decrees

The Water Court issued 6 Preliminary/Interim decrees in 2013. All of these decrees are in an objection or counter objection period. The table below shows deadlines and objections received as of June 13, 2014.

Basin	Date Prelim Issued	Original Obj Deadline	Extended Deadline	Extended Deadline	Counter obj Deadline	No. of Objections As of 6/13/2014
41A	5/9/2013	11/5/2013	2/3/2014	5/5/2014	8/18/2014	1282
42A	5/23/2013	11/19/2013	2/14/2014	5/14/2014		511
43N	6/13/2013	12/10/2013	3/10/2014	6/9/2014		32
40I	6/20/2013	12/17/2013	3/17/2014	6/16/2014		248
41B	5/9/2013	11/5/2013	2/3/2014	5/5/2014	8/18/2014	861
40F	12/12/2013	6/10/2014	9/8/2014			35

For Basins 42A, 43N and 40I, it is likely that counter objection periods will commence after the writing of this report, but prior to the July WPIC and EQC meetings. Updated information will be provided at that time.

**Decrees Issued in 2014:** The Water Court has issued 3 decrees in 2014. The table below shows deadlines and objections received as of June 13, 2014.

Basin	Date Preliminary Issued	Original Objection Deadline	Extended Deadline	Extended Deadline	No. of Objections As of 6/13/2014
42M	1/24/2014	7/23/2014			27
40EJ	4/25/2014	10/22/2014			2
40T	6/19/2014	12/22/2014			

### Initial Decrees Remaining to be Issued:

There are 7 initial decrees remaining to be issued. The timing of issuance depends on completion of summary reports by DNRC and subsequent review of those reports by the Court. The DNRC is not scheduled to complete any new summary reports until 2015. No new decrees will be issued until those reports are completed.

The Court anticipates 50 percent of claims will receive DNRC issue remarks or objections. This percentage is based on past averages and represents the number of claims that will be addressed in Court proceedings. Basins without initial decrees are:

- 41L-Cut Bank River
- 41M-Two Medicine River
- 41P-Marias River

- 43P-Bighorn River below Greybull River
- 76HA-Bitterroot River, East Side
- 76L-Flathead River below Flathead Lake
- 76LJ-Flathead River including Flathead Lake

**Summary Reports**

The Water Court is not currently reviewing any Summary Reports.

**Enforcement Actions for 2014**

With the irrigation season underway, the Water Court has begun sending District Courts current enforcement tabulations. As of June 13, 2014, tabulations for 22 projects have been mailed. The Court anticipates a total of 40 total tabulations for the year.

**Exempt from Filing (SB 355)**

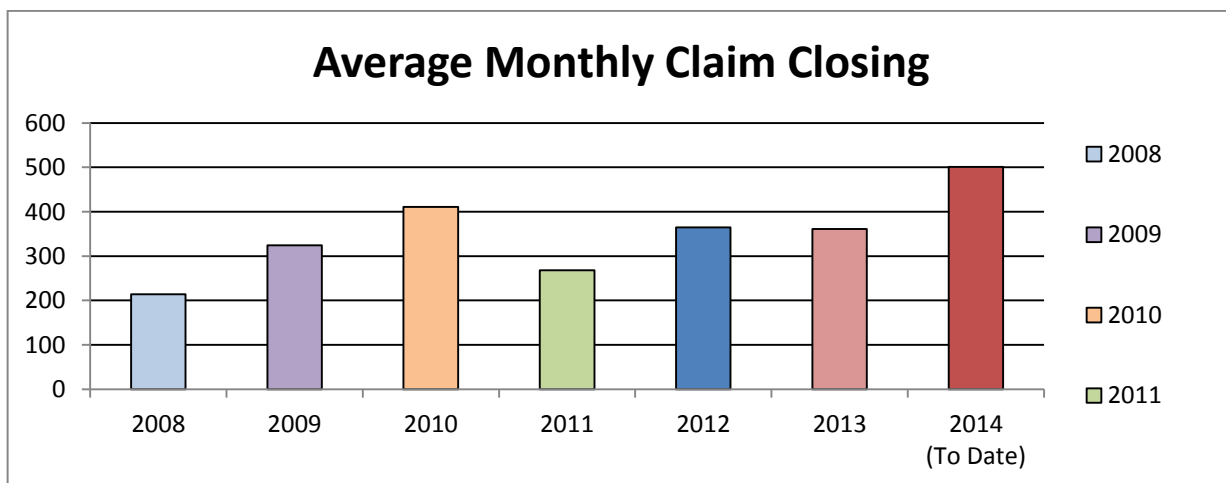
SB 355 was passed during the last Legislative session. The resulting law allows individuals to file on exempt claims. The process became operational on October 1, 2013. The Court continues to receive petitions for this process.

**Staffing Changes**

Since the last report, the Water Court has added two temporary legal interns. The Water Court lost a Law Clerk and hired a replacement. A vacant Water Master position was also filled and one Deputy Clerk position became vacant.

**Progress of Adjudication**

The Water Court continues to work on initiatives to increase productivity, quality, and responsiveness and track progress. The following chart shows the Court’s average number of claims closed per month.



**DNRC REPORT TO EQC  
HB22 ADJUDICATION PROGRESS  
July, 2014**

**Claims Examination Progress**

- First benchmark 8,000 claims by 12-31-2006
  - Second benchmark 19,000 claims by 12-31-2008
  - Third benchmark 31,000 claims by 12-31-2010
  - Fourth benchmark 44,000 claims by 12-31-2012
  
  - Claims examined July 2005 thru June 2014 **57,000**
  - Claims examined by Purpose
    - o Irrigation 13,136 23%
    - o Stock 31,337 55%
    - o Domestic 7,327 13%
    - o Other 5,200 9%
- 57,000**

**Claims remaining to be examined** **0**

*The Department has met every benchmark set for it by the legislature in 2005 with the completion of initial examination of the 57,000 claims. Staff are currently working on issuing summary reports in the remaining 5 basins with two additional basins dependent on what happens with the CSKT compact and water rights.*

**Summary Reports to Water Court**

**Date Issued**

Union Creek (part of 76F)	May 19, 2005
Teton River (41O)	August 15, 2005
Big Hole River (41D)	October 31, 2006
Tongue River, below hanging Woman Creek (42C)	August 7, 2007
Blackfoot River (76F)	August 14, 2007
Missouri River, from Holter Dam to Sun River (41QJ)	August 15, 2007
Tongue River, above Hanging Woman (42B)	December 5, 2007
Pryor Creek (43E)	August 18, 2008
Smith River (41J)	September 1, 2008
Beaver Creek (40M)	September 1, 2008
Flatwillow Creek (40B)	September 11, 2008
Milk River (40J)	December 5, 2008
Little Big Horn River (43O)	February 6, 2009
Big Muddy Creek (40R)	April 6, 2009
Missouri River, Sun River to Marias River (41Q)	June 16, 2009
Beaverhead River (41B)	August 14, 2009
Arrow Creek (41R)	October 23, 2009
Missouri River, from Marias River to Bullwhacker Creek (41T)	November 17, 2009
Milk River above Fresno Reservoir (40F)	April 15, 2011

Rosebud Creek (42A)	December 13, 2012
Red Rock River (41A)	January 10, 2013
Peoples Creek (40I)	February 5, 2013
Shoshone River (43N)	February 12, 2013
Yellowstone River below Powder River (42M)	July 17, 2013
Missouri R between Bullwhacker & Musselshell (40EJ)	September 25, 2013
St. Mary River (40T)	January 31, 2014

<b>Decrees Issued by Water Court</b>	<b>Date Issued</b>	<b>Number of Claims</b>
Teton River (41O)	12/29/2005	2,541
Union Creek (part of 76F)	3/10/2006	42
Big Hole River (41D)	4/6/2007	3,892
Missouri River (41QJ)	2/6/2008	2,584
Tongue River (42C)	2/28/2008	4,710
Tongue River (42B)	2/28/2008	1,345
Forest Service Compact	5/19/2008	262
BLM-Montana Compact	3/6/2009	2
Beaver Creek (40M)	3/20/2009	2,942
Big Muddy Creek (40R)	1/28/2010	2,029
Pryor Creek (43E)	2/25/2010	629
Little Big Horn River (43O)	3/17/2010	1,176
Missouri River from Sun River to Marias River (41Q)	5/27/2010	4,127
Milk River between Fresno Res & Whitewater (40J)	6/24/2010	12,897
Smith River (41J)	12/16/2010	2,719
Blackfoot River (76F)	2/10/2011	3,717
Flatwillow Creek (40B)	5/5/2011	3,677
Arrow Creek (41R)	6/23/2011	2,179
National Bison Range Compact	9/30/2011	97
Missouri River, from Marias River to Bullwhacker Creek (41T)	4/19/2012	3,073
Crow Tribe of Indians Montana Compact	1/28/2013	NA
Beaverhead River (41B)	5/9/2013	2,238
Red Rock River (41A)	5/9/2013	2,861
Rosebud Creek (42A)	5/23/2013	1,220
Shoshone River (43N)	6/13/2013	165
Peoples Creek (40I)	6/20/2013	686
Milk River above Fresno Reservoir (40F)	12/12/2013	2,339
Yellowstone River below Powder River (42M)	1/24/2014	5,290
<b>Bowdoin National Wildlife Refuge Compact</b>	<b>4/2/2014</b>	<b>7</b>
<b>Missouri River between Bullwhacker &amp; Musselshell River (40EJ)</b>	<b>1/24/2014</b>	<b>2,676</b>
<b>St. Mary River( 40T)</b>	<b>6/26/2014</b>	<b>267</b>

Above decrees scanned and available at:

[http://www.dnrc.mt.gov/wrd/water\\_rts/adjudication/default.asp](http://www.dnrc.mt.gov/wrd/water_rts/adjudication/default.asp)

<b>BASINS BY COMPLETION DATE - DNRC WORK PLAN FY 2014</b>				
BASIN COUNT	BASIN NAME	WORK STATUS	Estimated Completion Date	
1	Flathead R below Flathead Lake (76L)	Summary Report pending	Dependant on CSKT	
2	Big Horn R below Greybull R (43P)	Summary Report pending	3	2015
3	Flathead River (76LJ)	Summary Report pending	Dependant on CSKT	
4	Cut Bank River (41L)	Summary Report pending	6	2015
5	Two Medicine River (41M)	Summary Report pending	10	2014
6	Marias River (41P)	Summary report Pending	9	2014
7	Bitterroot R, E side (76HA)	Summary Report pending	4	2015

### **Assistance for District Court Enforcement of Water Court Decrees**

2005 season completed water court assistance for 23 projects  
2006 season completed water court assistance for 23 projects  
2007 season completed water court assistance for 26 projects  
2008 season completed water court assistance for 32 projects  
2009 season completed water court assistance for 36 projects  
2010 season completed water court assistance for 38 projects  
2011 season completed water court assistance for 38 projects  
2012 season completed water court assistance for 40 projects  
2013 season completed water court assistance for 42 projects  
2014 season completed water court assistance for 42 projects

### **HB39 Automate Ownership updates (effective July 1, 2008)**

-Department staff continue to validate water right geocodes for property transfers that occurred from November 2010 thru January 2012.  
-In 2010, 3,821 ownerships were updated involving 9,460 water rights  
-In 2011, 6,245 ownerships were updated involving 15,765 water rights.  
-In 2012 8,729 ownerships were updated involving 20,496 water rights.  
-In 2013 8,208 ownerships were updated involving 19,305 water rights.  
-**So far this fiscal year 7,618 ownerships have been updated involving 18,360 water Rights**

### **Post Decree Assistance (July- FY2014)**

<u>case type</u>	<u>case count</u>	<u>work hours</u>
Certified case		<b>0</b>
Case with Objector	<b>40</b>	<b>1,359</b>
85-2-248 case	<b>134</b>	<b>3,336</b>
General assist		<b>869</b>
Total hours		<b>5,564</b>

*Post Decree assistance primarily involves working with claimants and the Water Court to help resolve issue remarks on water rights. This assistance is generated through the on motion process (85-2-248) and objections by water users resulting in a case. Assistance includes meeting with claimants, conducting field investigations, mapping, and providing recommendations and technical reports pertaining to individual cases. In addition, assistance is requested by the Water Court to help with certified cases before and after the initial decree phase. Unique requests to help the Water Court resolve specific cases such as large basin mapping projects, and other technical requests fall within the general assistance category.*

### **SB355 Fillings (effective Oct 1, 2013)**

The department has received 164 statement of claims to date. 26 of these have the purpose of domestic and 138 have the purpose of stock. Examination is occurring on basins nearing initial decree and basins with notice deadlines.

### **Re-examination order on verified and early examined basins**

The department has not started working on the 43 basins with approximately 90,000 claims affected by this order. The work involved primarily addresses water distribution issues and is not a full examination of the claims. Work in these basins is anticipated to be complete by July 1<sup>st</sup> of 2021 if additional funding is received to maintain current staffing levels at DNRC and the Water Court.

### **Other additional adjudication work could include:**

- Examination and decrees of non-compacted tribal water rights;
- Possible examination of water rights for post-73 abandonment;
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