

EXHIBIT 9

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HB 782

JUL 15 1987



MONTANA WATER COURTS

MONT. DEPT. of NATURAL
RESOURCES & CONSERVATION

STATE OF MONTANA

WATER JUDGES:

July 13, 1987

Upper Missouri River Basin
Chief Judge W. W. Lessley
P.O. Box 879
Bozeman, MT 59715

Lower Missouri River Basin
Judge Bernard W. Thomas
P.O. Box 838
Chinook, MT 59523

Clark Fork River Basin
Judge Robert M. Holter
Lincoln County Courthouse
Libby, MT 59923

Yellowstone River Basin
Judge Roy C. Rodeghiero
P.O. Box 448
Roundup, MT 59072

Mr. Larry Fasbender, Director
Department of Natural Resources
and Conservation
1520 East Sixth Avenue
Helena, Montana 59620

RE: Withdrawing Objections by DNRC

Dear Larry:

I have received your letter of July 7, 1987, which sets forth your agency's intent to significantly reduce the number of objections filed in the future on behalf of the State of Montana. Section 85-2-233-MCA. Further, I understand that your agency will be withdrawing many objections already consolidated into cases before the Water Court.

This Court does not wish to interfere in any way with your agency's decisions on your objection function. I must point out to you that that function of the DNRC is governed by statute. What you feel are the DNRC statutory duties is within your discretion. Obviously your sudden reversal of objection policy does concern me.

* The Court will continue to call in all "gray area" remarks; our manner of dealing with them will not change. *

We will continue to review these and certain other claims. As I have stated before, the process of raising issues upon Motion of the Court was never meant to replace objections filed by adversarial parties. Although the Water Court can review certain issues upon Motion, we cannot do so from an adversarial position. It is the adversity in legal proceedings which insures that both sides of any issues will be thoroughly and zealously presented.

The Water Court calls certain claims before it on Motion, however, the Court takes an active role in questioning only those that have not been objected to by an interested party. We do this as a last step to assure and enhance the defensibility of the adjudication process. *

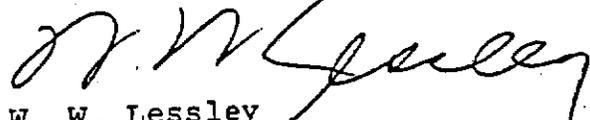
However, I believe that the Court's goal of assuring a strong general adjudication process for the State adjudication of pre-1973 water rights is best served by the objection process set up by the legislature.

I urge you and your staff to continue to file all valid objections necessary to adequately protect the interests of the State of Montana.

I am always willing to speak with you in person or by telephone to discuss any questions or concerns that you may have.

I am sending a copy of this letter and your July 7th letter to the Water Policy Committee for their review.

With best personal wishes,


W. W. Lessley
Chief Water Judge

WWL/js

encl.

cc: Water Policy Committee:

Senate Members

Jack E. Galt, Chairman
Pete Story
Esther G. Bengtson
Larry Stimatz

House Members

Dorothy Bradley, Vice Chairman
Gary Spaeth
Dennis Iverson
Bob Marks