

**Program Budget Comparison**

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2012	Approp. Fiscal 2013	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 12-13	Biennium Fiscal 14-15	Biennium Change	Biennium % Change
FTE	21.50	21.50	24.50	24.50	21.50	24.50	3.00	13.95%
Personal Services	1,428,829	1,694,135	1,846,464	1,849,723	3,122,964	3,696,187	573,223	18.36%
Operating Expenses	196,382	192,156	260,956	255,382	388,538	516,338	127,800	32.89%
Equipment & Intangible Assets	8,287	8,287	8,287	8,287	16,574	16,574	0	0.00%
<b>Total Costs</b>	<b>\$1,633,498</b>	<b>\$1,894,578</b>	<b>\$2,115,707</b>	<b>\$2,113,392</b>	<b>\$3,528,076</b>	<b>\$4,229,099</b>	<b>\$701,023</b>	<b>19.87%</b>
State Special	1,633,498	1,894,578	2,115,707	2,113,392	3,528,076	4,229,099	701,023	19.87%
<b>Total Funds</b>	<b>\$1,633,498</b>	<b>\$1,894,578</b>	<b>\$2,115,707</b>	<b>\$2,113,392</b>	<b>\$3,528,076</b>	<b>\$4,229,099</b>	<b>\$701,023</b>	<b>19.87%</b>

**Program Description**

The Water Courts Supervision Program, located in Bozeman, adjudicates claims of existing water rights in Montana pursuant to Title 3, Chapter 7 and Title 85, Chapter 2, MCA.

**Program Highlights**

<b>Water Courts Supervision Major Budget Highlights</b>	
<ul style="list-style-type: none"> <li>◆ Personal services would increase due to statewide present law adjustments and a request for funding to add 3.00 FTE to support water adjudication work</li> <li>◆ Operating costs would increase to fund office lease inflation</li> </ul>	
<b>Major LFD Issues</b>	
<ul style="list-style-type: none"> <li>◆ Funds from the Water Adjudication Fund may be insufficient to fund future work</li> </ul>	

**Funding**

The following table shows program funding, by source for the 2015 biennium as recommended by the Governor.

Total Judicial Branch Funding by Source of Authority 2015 Biennium Budget - Water Courts Supervision							
Funds	HB 2	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	MCA Reference	Statutory Category
State Special Total	\$4,229,099	\$0	\$0	\$4,229,099	100.0%		
02431 Water Adjudication	\$2,166,372	\$0	\$0	\$2,166,372	51.2%		
02576 Natural Resources Operations Ssr Fu	\$2,062,727	\$0	\$0	\$2,062,727	48.8%		
Total All Funds	\$4,229,099	\$0	\$0	\$4,229,099	100.0%		
<b>Percent - Total All Sources</b>	<b>100.0%</b>	<b>0.0%</b>	<b>0.0%</b>				

The Water Court is supported entirely by state special revenue from the renewable resources grant and loan account and the water adjudication account. Legislation passed by the 2007 Legislature (HB 473 of the regular session) transferred \$25.0 million from the general fund to the state special revenue account for adjudication of water rights claims. The following figure shows the projected fund balance for the Water Adjudication Fund through the end of the 2015 biennium and is based on the Governor's request.

Department of Natural Resources and Conservation Water Adjudication Fund (02431)				
	Actual FY 2012	Appropriated FY 2013	Executive Request FY 2014	Executive Request FY 2015
Beginning Balance	\$15,084,895	\$12,337,073	\$9,207,109	\$5,946,176
Expenditures				
Judiciary - Water Court	637,171	897,925	1,087,322	1,079,050
DNRC - Water Resources	1,902,059	2,082,984	1,923,406	1,926,458
DNRC - Centralized Services	<u>270,975</u>	<u>204,055</u>	<u>300,205</u>	<u>291,878</u>
Total Expenditures	\$2,810,205	\$3,184,964	\$3,310,933	\$3,297,386
Revenues	61,236	55,000	50,000	45,000
Adjustments	1,147	0	0	0
Ending Balance	<u>\$12,337,073</u>	<u>\$9,207,109</u>	<u>\$5,946,176</u>	<u>\$2,693,790</u>

#### *Potential Funding Issues for Water Adjudication*

In order for Montana to defend its water use from demands from other states and Canada, it must have water right decrees in place. To expedite this process, the 2005 Legislature passed HB 22 requiring the Department of Natural Resources and Conservation to complete claims examination by June 30, 2015. The Water Court would have an additional five years to finish the process by issuing preliminary or temporary preliminary decrees by June 30, 2020.

The program was initially funded by a water right fee deposited to the water adjudication fund. However, in the 2007 Legislative Session the fee was eliminated and the fund was provided a \$25.0 million transfer from the general fund. According to 85-2-280, MCA, the fund was to be sufficient to finish the on-the-ground work and fund the Water Court until FY 2020. However, estimates show that at the end of FY 2015, the water adjudication fund will have less than \$2.7 million to fund the remaining work of issuing and enforcing decrees. If allocations are made up to the limit allowed in law the projected balance of \$2.7 million would be insufficient to fund the \$5.3 million in expenditures for the five years of fiscal years 2016 through 2020. Refer to the following LFD Issue for further details.

<b>LFD ISSUE</b>	Water Adjudication Fund Appropriation Limits
	<p>The legislature established limits in statute on expenditures for the Water Adjudication Program from fiscal years 2006 through 2020. The intent of these limitations was to allow the fund to be used for adjudication activities and to ensure funding would last for the duration of the adjudication period, including the five years of estimated Water Court work after the on-the-ground portion has been completed. The limit is based on an allocation of \$2.6 million in FY 2006 with annual increases tied to the inflation assumptions of the revenue estimating resolution. Beginning July 1, 2015, the limit is reset to \$1.0 million for FY 2016 with annual increases tied to the inflation factor of the revenue estimating resolution.</p> <p>The following figure compares the actual, appropriated, and requested amounts with the statutory limit that has been inflated 3 percent per year. As shown, the statutory limit is exceeded in FY 2008 through FY 2011 and again in FY 2014. The cumulative effects are not negative until FY 2010 because expenditure levels in FY 2006 and FY 2007 were less than the statutory amount. The cumulative amount increased dramatically in FY 2010 when approximately \$2.0 million was transferred to the natural resources operations fund to assist with a funding shortage.</p>

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Department of Natural Resources and Conservation Water Adjudication Fund Statutory Limit and Disbursements				
Fiscal Year	Limit	Disbursements	Difference	Cummulative
2020	\$1,125,509	\$1,125,509	\$0	(\$2,126,651)
2019	1,092,727	1,092,727	0	(2,126,651)
2018	1,060,900	1,060,900	0	(2,126,651)
2017	1,030,000	1,030,000	0	(2,126,651)
2016	1,000,000	1,000,000	0	(2,126,651)
2015	3,392,410	3,297,386	95,024	(2,126,651)
2014	3,293,602	3,310,933	(17,331)	(2,221,675)
2013	3,197,672	3,184,964	12,708	(2,204,344)
2012	3,104,536	2,810,205	294,331	(2,217,052)
2011	3,014,113	3,504,904	(490,791)	(2,511,383)
2010	2,926,323	5,090,920	(2,164,597)	(2,020,592)
2009	2,841,090	3,193,938	(352,848)	144,005
2008	2,758,340	2,784,071	(25,731)	496,853
2007	2,678,000	2,437,545	240,455	522,584
2006	2,600,000	2,317,871	282,129	282,129

It is projected that at the end of FY 2015 the Water Court would have approximately \$2.8 million to complete five years of work. The amount could be different depending on the amount of interest earned and the actual expenditures from the fund. At issue is whether the proposed executive budget will negatively impact the legislature's ability to fund the Water Court's completion of issuance and enforcement of decrees after on-the-ground work is completed by DNRC. To address this issue, the legislature would need to reduce the amount of funding coming from the water adjudication fund or find another source of revenue for the fund.

This same issue was raised during the 2011 Legislature. The legislature passed SJ 26 that recommended monitoring of the Water Court by the Legislative Finance Committee during the interim. The Water Court and the Department of Natural Resources and Conservation reported at each interim meeting of the Environmental Quality Council providing the status of the water adjudication process. As of July 31, 2012, 51,419 water rights claims have been examined since July 2005. By the end of June 2015, 5,581 claims remain to be examined, which equates to 10% of the claims remaining to be examined in the remaining 30% of time allotted. This claims examination progress compares favorably to the statutory benchmark of having 44,000 claims examined by December 31, 2012. The favorable claims examination progress also reduces the risk of falling short on funding for the program. If the program continues to remain ahead of the statutory schedule, the funding for later years work may not be needed and the legislature may not need to address the projected deficit in program funding.

Please refer to the narrative for the Water Resource Division in the Department of Natural Resources and Conservation, for further discussion of options that the legislature could consider to mitigate the amount of funding coming from the water adjudication account or supply the account with another source of revenue.

**Budget Summary by Category**

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget
Base Budget	0	0	0	0.00%	1,633,498	1,633,498	3,266,996	77.25%
Statewide PL Adjustments	0	0	0	0.00%	244,685	248,913	493,598	11.67%
Other PL Adjustments	0	0	0	0.00%	237,524	230,981	468,505	11.08%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
<b>Total Budget</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>		<b>\$2,115,707</b>	<b>\$2,113,392</b>	<b>\$4,229,099</b>	

**Present Law Adjustments**

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

	-----Fiscal 2014-----					-----Fiscal 2015-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					245,923					249,307
Inflation/Deflation					188					463
Fixed Costs					(1,426)					(857)
<b>Total Statewide Present Law Adjustments</b>		<b>\$0</b>	<b>\$244,685</b>	<b>\$0</b>	<b>\$244,685</b>		<b>\$0</b>	<b>\$248,913</b>	<b>\$0</b>	<b>\$248,913</b>
DP 5001 - Water Court Rent Increase	0.00	0	5,328	0	5,328	0.00	0	8,130	0	8,130
DP 5002 - Water Court - FTE Transfer	3.00	0	232,196	0	232,196	3.00	0	222,851	0	222,851
<b>Total Other Present Law Adjustments</b>	<b>3.00</b>	<b>\$0</b>	<b>\$237,524</b>	<b>\$0</b>	<b>\$237,524</b>	<b>3.00</b>	<b>\$0</b>	<b>\$230,981</b>	<b>\$0</b>	<b>\$230,981</b>
<b>Grand Total All Present Law Adjustments</b>	<b>3.00</b>	<b>\$0</b>	<b>\$482,209</b>	<b>\$0</b>	<b>\$482,209</b>	<b>3.00</b>	<b>\$0</b>	<b>\$479,894</b>	<b>\$0</b>	<b>\$479,894</b>

DP 5001 - Water Court Rent Increase - The executive requests an increase in state special revenue to address a 3% inflation clause in the lease for offices of the Water Court in Bozeman. The lease cost increases by 3% every May per the lease agreement.

DP 5002 - Water Court - FTE Transfer - The executive requests state special revenue to fund the personal services and operating costs for 3.00 FTE. The FTE are being shifted from the Department of Natural Resources and Conservation (DNRC) to the Water Court to support water rights adjudication. These positions would be funded by the Water Adjudication state special revenue fund. This decision package includes: a 1.00 FTE deputy clerk; and 2.00 FTE water masters.

<b>LFD COMMENT</b>	A like request is contained in the budget for the Water Resources Division of the DNRC for the reduction of 3.00 FTE, although at a lower cost than what is included in this program. For further information on the DNRC decision package (present law DP 2408) see the narrative for that agency.
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