

DELPHIA MELSTONE CANAL USERS ASSN.
Melstone, Mt
January 14, 2004

Water Quality Council
Honorable Senator McNutt Chairman

Ladies and Gentlemen,

By now you have likely heard a good deal concerning the need for changes and improved funding in the water adjudication process. I would like to take this time to remind you as well, why we have and need adjudicated water rights.

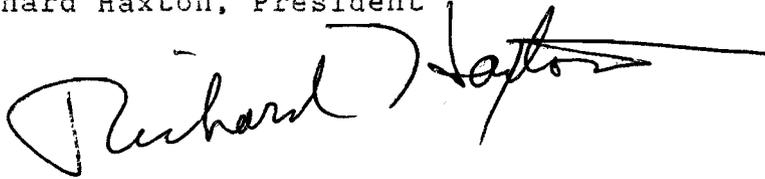
1. In arid regions the right to divert and use water is as much a property as a home, a horse or even the money we carry on our person. Our democratic government has clearly defined these rights. They represent wealth and labor in much the same way as a real estate deed.
2. When we call on policemen and courts to help us defend our property, we first need to establish ownership. Adjudication is nothing more than defining ownership.
3. A Water property is different in that it can be easily taken unknowingly from an owner by someone miles away. This is why we now have an enforcement project on the Musselshell River. However, enforcement requires that water rights be reasonably accurate.
4. During 50 years of operation, our canal users have experienced a gradual decline in the amount of water reaching their fields. We are inclined to believe that a smaller percentage of any moisture falling in the drainage is now making its way to the lower end.
5. It appears that more and more water is being diverted on to properties upstream. The Water Resources Survey published by the State Engineer's Office, July 1949 is our reference point. We see these diversions as a somewhat benign form of theft.
6. The adjudication process in areas 40A and 40C is not unlike a school having playground rules but no supervising teachers. Eventually the playground can become an unpleasant place for some children.

7. What has happened to us ranchers on the Lower Musselshell is that like the child whose lunch money is lifted, our water has been diverted. Then, when we look to the authorities for justice, the situation often becomes a complicated " he said, she said" stalemate.

8. Since our problems are not unique, our association urges you to provide the DNRC and the Water Court with the funding and the tools to provide greater accountability .

Thank You for Listening

Richard Haxton, President

A handwritten signature in cursive script, reading "Richard Haxton", with a long horizontal flourish extending to the right.