



ENVIRONMENTAL QUALITY COUNCIL

PO BOX 201704
HELENA, MONTANA 59620-1704
(406) 444-3742

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To: Environmental Quality Council
From: Joe Kolman
Re: Water Adjudication Reports

February 15, 2009

EQC Members,

Attached are the adjudication reports from the Montana Water Court and the Department of Natural Resources and Conservation. Section 85-2-281, MCA requires the Water Court and the DNRC to report to the EQC on the progress of the adjudication process until 2020.

As part of the ongoing coordination between the EQC and the Water Policy Interim Committee, the EQC agreed at the start of this interim that the court and the agency provide written reports to both committees, as well as oral presentations to the WPIC.

The WPIC meets in Helena March 10 and 11. The agenda includes overviews of water right change regulations, water marketing, and water right enforcement. The committee also will discuss options for addressing exempt wells and coal bed methane water.

Please contact me if you have questions.

Joe Kolman
Legislative Environmental Policy Office
406.444.9280 Phone 406.444.3971 FAX
Rm 171A, State Capitol Building
P.O. Box 201706
Helena, MT 59620-1706

**DNRC REPORT TO EQC
HB22 ADJUDICATION PROGRESS
February, 2010**

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**
 - Claims examined July 2005 thru February, 1 2010 **40,384**
 -
 - Claims examined by Purpose
 - o Irrigation 9341 23%
 - o Stock 22767 57%
 - o Domestic 4870 12%
 - o Other 3406 8%
- 40,384**

Claims remaining to be examined **16,716**

Summary Reports to Water Court

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

Decrees Issued by Water Court

<u>Decrees Issued by Water Court</u>	<u>Date Issued</u>	<u>Number of Claims</u>
Teton River (41O)	12/29/2005	2,500
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

Above decrees scanned and available at:

http://www.dnrc.mt.gov/wrd/water_rts/adjudication/default.asp

BASINS BY COMPLETION DATE - DNRC WORK PLAN 2009				
BASIN COUNT	BASIN NAME	WORK STATUS	Estimated Completion Date	
1	Flathead R below Flathead Lake (76L)	Examination in progress	12	2009
2	Big Horn R below Greybull R (43P)	Examination in progress	3	2010
3	Rosebud Creek (42A)	Examination in progress	6	2010
4	Shoshone River (43N)	To be Examined	9	2010
5	Milk River above Fresno (40F)	Summary prep pending	3	2011
6	Flathead River (76LJ)	Examination in progress	9	2011
7	Cut Bank River (41L)	Summary prep pending	6	2012
8	St. Mary River (40T)	Summary prep pending	7	2012
9	Yellowstone R below Powder R (42M)	Examination in progress	8	2012
10	Red Rock River (41A)	Examination in progress	2	2013
11	Peoples Creek (40I)	Summary prep pending	6	2013
12	Two Medicine River (41M)	Summary prep pending	8	2013
13	Marias River (41P)	Examination in progress	10	2013
14	Missouri R between Bullwacker & Musselshell (40EJ)	Examination in progress	3	2015
15	Bitterroot R, E side (76HA)	Examination in progress	6	2015
16	Frenchman Creek Re-Examination (40L)	Examination in progress	3	2010

District Court Enforcement Actions

2005 season completed water court assistance for 23 streams
2006 season completed water court assistance for 23 streams
2007 season completed water court assistance for 26 streams
2008 season completed water court assistance for 32 streams
2009 season completed water court assistance for 36 streams
Automated indexes are now in use

Post Decree Assistance (July thru Jan 2010)

<u>Case type</u>	<u>case count</u>	<u>work hours</u>
Certified case	1	85
85-2-248	202	2040.5
Case	30	370
<u>General assist</u>		<u>203</u>
Total hours		2,698.5

Expenses

YTD FY 2010:	Operating Costs	\$ 143,740.00
	Personnel Services	\$ 1,122,423.00
	Total	\$ 1,266,163.00
	Budget	\$ 2,375,917.00

Billing System

108,000 bills mailed Dec 27, 2005
Estimated revenue generated \$6.2 million
Revenue received \$5.203 million

Appeals

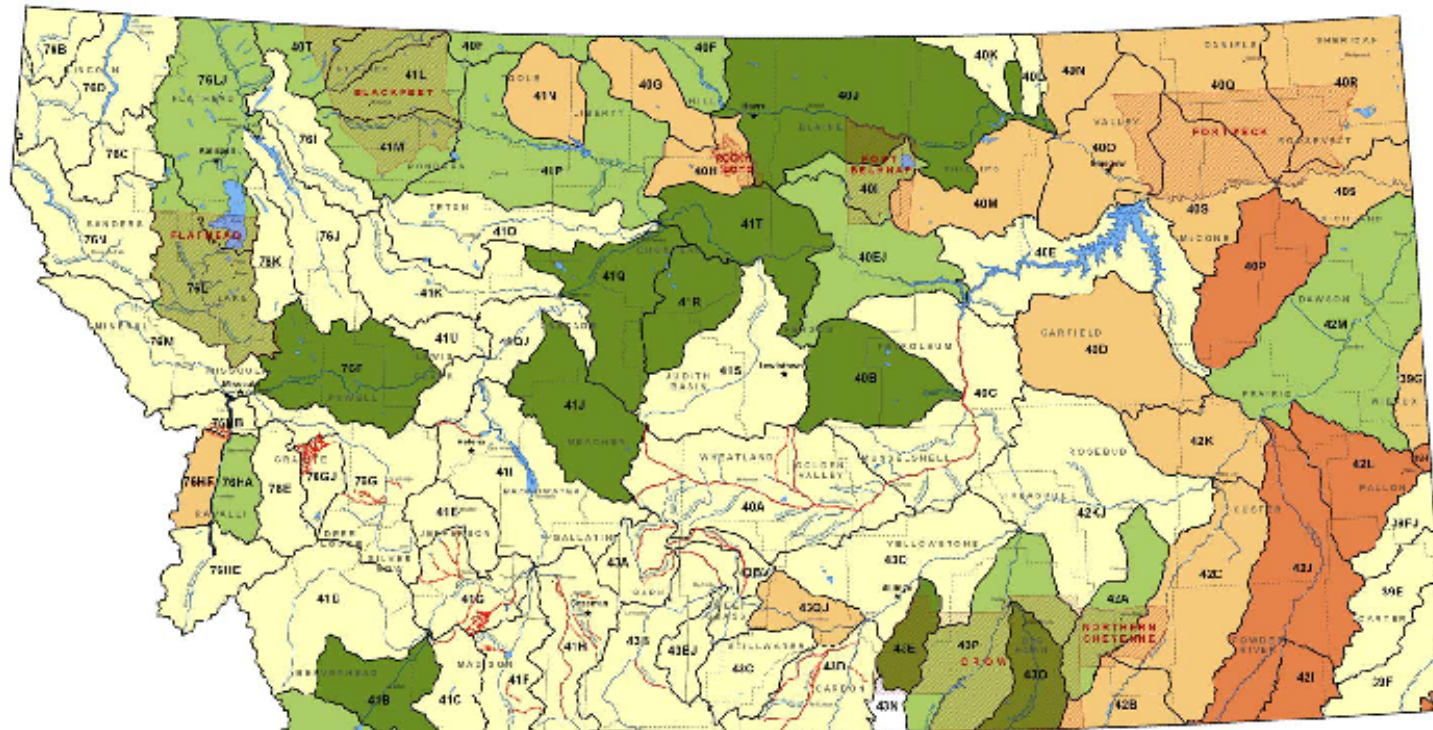
5,048 Appeals received
4394 appeals resolved to date (1118 denied, 3387 resolved with fee correction)
432 appeals remain

HB39 Automate Ownership updates (effective July 1, 2008)

- Contract is finalized and Tyler Inc is developing the program for DOR to pass thru new property owner names to DNRC for updating water right records.
- Geocodes were loaded into DNRC database in June 2008.
- State-wide ownership update export to DNRC was received 12-4-2009.
- DNRC is scrubbing data and validating geocodes for input, estimated completion date June 2010.**
- Re-Examination of basin 40L includes 402 claims not counted towards claim examination progress**

Basin Location and Adjudication Status

2/3/10



- III Water Court
- ★ Regional Offices
- Enforcement Actions
- COUNTRIES
- RESERVATIONS

Basin Boundary & Decree Status

- Currently Examining
- Summary Report Issued
- Not Yet Examined
- Temporary Decree
- Preliminary Decree
- Final Decree



Water Resources Division
February 2010
Montana State Plane NAD 83

WATER COURT
ADJUDICATION PROGRESS REPORT TO THE EQC PURSUANT TO § 85-2-281, MCA
Submitted by C. Bruce Loble, Chief Water Judge
February 11, 2010

The Water Court's primary focus is to work through its existing inventory of water right claims that have unresolved objections, issue remarks, motions to amend, and claims certified to the Water Court by the DNRC or District Courts. The Court's goal is to draw down its current caseload to clear its docket for the large number of claims that are moving through the DNRC claim examination pipeline and which are scheduled to be incorporated into Water Court decrees within the next few years. Currently, the Water Court is primarily working on water right claims in the following basins:

Basin	Source	Claims in Decree	Remaining Claims to Resolve
40A	Musselshell River above Roundup	5,812	129
40E	Missouri River between Musselshell River & Fort Peck Dam	3,010	208
40H	Big Sandy Creek	797	50
40O	Milk River Below Whitewater Creek	3,306	1,207
40M	Beaver Creek, Tributary of Milk River	2,942	Objections Received - Counter-objection Period is being Scheduled
40Q	Poplar River (this basin will be deleted from the next EQC report)	2,080	7
40R	Big Muddy Creek	2,029	Decree issued 1/28/2010 Objection Deadline Set for July 27, 2010
40S	Missouri River Below Ft. Peck Dam	2,966	335
41C	Ruby River	2,183	187
41D	Big Hole River	3,892	2,204
41G	Jefferson River	2,407	209
41I	Missouri River upstream of Holter Dam	5,168	222
41O	Teton River	2,541	990
41QJ	Missouri River from Holter Dam to Sun River	2,584	716
42B	Tongue River above and including Hanging Woman Creek	1,345	520

42C	Tongue River below Hanging Woman Creek	4,708	1,189
42KJ	Yellowstone River between Bighorn and Tongue Rivers	4,767	618
43B	Yellowstone River above & including Bridger Creek	4,860	301
43Q	Yellowstone River between Clarks Fork Yellowstone and Bighorn Rivers	2,473	176
76HF	Bitterroot River - Westside Subbasin	3,774	212
United States Forest Service - Montana Compact — Several Objections Still Pending - Discovery and Pre-hearing Deadlines have been Set			
United States Bureau of Land Management - Montana Compact — All Objections Withdrawn			

The Water Court has completed most of its review of the Ten Summary Reports (basically draft decrees) generated by the DNRC following completion of the DNRC basin water right claim examination duties. As the DNRC completes its ongoing ownership update efforts in the Summary Report basins, the Water Court anticipates issuing decrees, perhaps as often as one a month, in the approximate order of the following basin list:

Basin Designation	Source	Approximate Number of Claims
43E	Pryor Creek	625
43O	Little Big Horn River	1,176
41Q	Missouri River from Sun River to Marias River	4,118
41J	Smith River	2,711
76F	Blackfoot River	3,690
40B	Flatwillow Creek	3,633
40J	Milk River between Fresno Reservoir & Whitewater Creek	12,881
41B	Beaverhead River	2,163
41R	Arrow Creek	2,167
41T	Missouri River Between Marias River to and including Bullwacker Creek	3,063
Ten Basins	Approximate Number of Claims in Prospective Decrees	36,227

The Water Court has directed the DNRC claim examination staff to contact water users who are claiming the use of private stock water rights on federal public lands and to obtain base property information in order to identify the private lands to which the stock claims are appurtenant.

In response to the 2009 legislative mandate to generate “vacancy savings,” the Water Court has still not filled a half time FTE position. In response to the suggestion of the Office of the Supreme Court Administrator, a few Water Court staff members have continued scaling back their hours to slightly less than full time to help the Judicial Branch meet its vacancy savings goals.

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