

DNRC REPORT TO EQC
HB22 ADJUDICATION PROGRESS
August 28, 2009

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 July, **31 2009** **36,702**
- Claims examined by Purpose
 - o Irrigation 8162 22%
 - o Stock 21466 58%
 - o Domestic 4146 11%
 - o Other 2928 8%

36702

Claims remaining to be examined **20,298**

Summary Reports to Water Court

| | |
|---|------------------------|
| 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 Creek (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) | Feb 6, 2009 |
| Big Muddy Creek (40R) | April 6, 2009 |
| Missouri R to Marias (41Q) | June 16, 2009 |
| Beaverhead River (41B) | August 14, 2009 |

Decrees Issued by Water Court

| | | |
|----------------------------------|-------------------|--------------|
| Teton Basin Decree | December 29, 2005 | 2,500 claims |
| Union Creek Decree | March 10, 2006 | 42 claims |
| Big Hole River Decree | April 6, 2007 | 3,892 claims |
| Missouri River 41QJ | Feb 6, 2008 | 2,584 claims |
| Tongue River 42C | Feb 28, 2008 | 4710 claims |
| Tongue River 42B | Feb 28, 2008 | 1345 claims |
| Forest Service Compact | May 19, 2008 | 262 rights |
| BLM – Montana Compact | March 6 2009 | 2 rights |
| Beaver Creek, trib of Milk River | March 20, 2009 | 2942 claims |

Above decrees scanned and available at: http://dnrc.mt.gov/wrd/water_rts/adjudication

| BASINS BY COMPLETION DATE - DNRC WORK PLAN 2009 | | | | |
|--|--|-------------------------|----------------------|------|
| BASIN COUNT | BASIN NAME | WORK STATUS | EST COMPLETE DATE | |
| 1 | Missouri R from Marias to Bullwacker (41T) | Examination in progress | 10 | 2009 |
| 2 | Arrow Creek (41R) | Examination in progress | 12 | 2009 |
| 3 | Big Horn R below Greybull R (43P) | Summary prep pending | 12 | 2009 |
| 4 | Flathead R below Flathead Lake (76L) | Examination in progress | 12 | 2009 |
| 5 | Rosebud Creek (42A) | Examination in progress | 6 | 2010 |
| 6 | Shoshone River (43N) | To be Examined | 9 | 2010 |
| 7 | Milk River above Fresno (40F) | Summary prep pending | 3 | 2011 |
| 8 | Flathead River (76LJ) | Examination in progress | 9 | 2011 |
| 9 | Cut Bank River (41L) | Summary prep pending | 6 | 2012 |
| 10 | St. Mary River (40T) | Summary prep pending | 7 | 2012 |
| 11 | Yellowstone R below Powder R (42M) | To be Examined | 8 | 2012 |
| 12 | Red Rock River (41A) | Examination in progress | 2 | 2013 |
| 13 | Peoples Creek (40I) | Summary prep pending | 6 | 2013 |
| 14 | Two Medicine River (41M) | Summary prep pending | 8 | 2013 |
| 15 | Marias River (41P) | Examination in progress | 10 | 2013 |
| 16 | Missouri R between Bullwacker & Musselshell (40EJ) | To be Examined | 3 | 2015 |
| 17 | Bitterroot R, E side (76HA) | Examination in progress | 6 | 2015 |

District Court Enforcement Actions

- Completed water court assistance on 23 streams 2005 season
- Completed water court assistance on 23 streams 2006 season
- Completed water court assistance on 26 streams 2007 season
- **Completed water court assistance on 37 streams 2009 season**
- Automated indexes are now in use

Post Decree Assistance

- expended 67 hours for certified case assistance
 - expended 1176 hours on 111 cases per 85-2-248
 - expended 375 hours on case assistance
 - expended 167 hours in general post decree assistance
- Total hours 1767

Expenses

| | | |
|------------------|---------------------------|-------------------------------|
| YTD FY09: | Operating Costs | \$ 331,822.00 |
| | Personnel services | <u>\$ 1,915,414.00</u> |
| | Total | \$ 1,247,236.00 |
| | Budget | \$ 2,555,369.00 |
| | | |
| YTD FY10: | Operating Costs | \$ 42,000.00 |
| | Personnel services | <u>\$ 166,272.00</u> |
| | Total | \$ 209,009.00 |
| | Budget | \$ 2,389,985.00 |

Billing System

- 108,000 bills mailed Dec. 27, 2005
- Estimated revenue generated \$6.2 million
- Revenue received **\$5.202 million**

Appeals

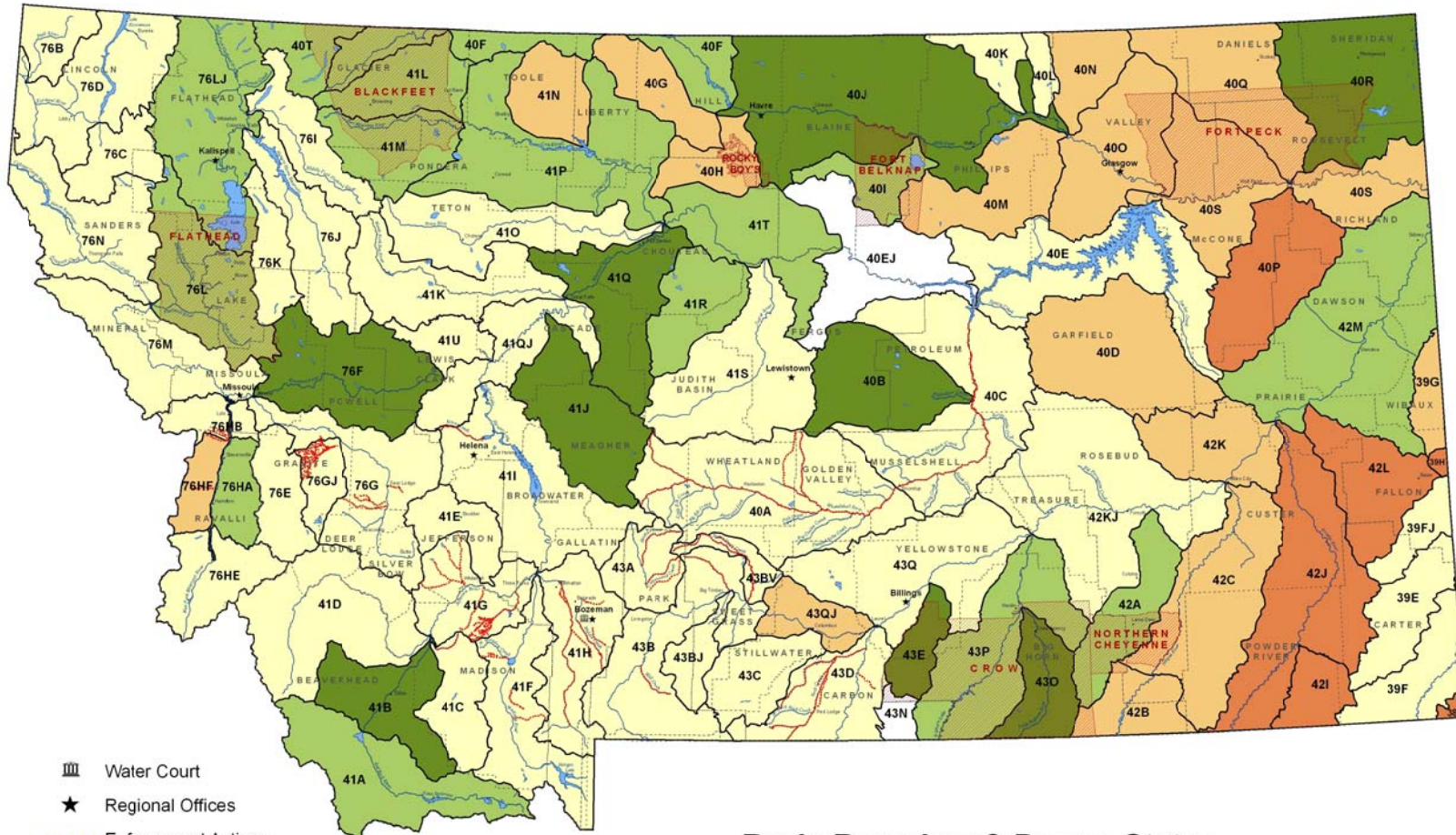
- 5,039 Appeals received
- **4222 appeals have been resolved to date (1104 denied, 3118 resolved with fee correction)**
- **817 appeals remain**

HB 39 Automate Ownership Updates effective July 1, 2008

- o 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.
- o Geocodes were loaded into DNRC database in June 2008.
- o **Changes to the ownership update program on DOR's Orion system were delivered to DOR July 13, 2009. Due to the deadline for mailing notice of property reappraisals and processing the tax assessment notices, DOR anticipates a state-wide ownership update export to DNRC will be after mid-September.**

Basin Location and Adjudication Status

8/6/09



- Water Court
- Regional Offices
- Enforcement Actions
- COUNTIES
- RESERVATIONS

Basin Boundary & Decree Status

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

Water Resources Division
August 2009
Montana State Plane NAD 83

MONTANA WATER COURT



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WATER COURT ADJUDICATION PROGRESS

Submitted by C. Bruce Loble, Chief Water Judge

August 20, 2009

The Report prepared by the Department of Natural Resources and Conservation identifies the Summary Reports which the DNRC has delivered to the Water Court and the Decrees issued by the Water Court, so that information will not be repeated here.

The Water Court is reviewing several Summary Reports and expects to begin issuing additional decrees once the Department of Revenue water right ownership update process is fully functional. While waiting for the Department of Revenue, the Water Court is working with the DNRC claim examination staff, the United States water adjudication staff, private attorneys, and some water users to gather additional information to complete the examination of (1) Indian and possible Indian successor claims near reservations, (2) claims for private stock water rights on federal lands, and (3) claims asserting the historical marshaling of water rights on irrigated lands. Additionally, the Water Court is working with interested parties to identify flow rate and volume guidelines to apply to instream claims, other than Department of Fish, Wildlife, & Parks Murphy Rights. Once the procedures to examine these issues are resolved and implemented, the prospective decrees represented by the pending Summary Reports will be ready to be issued.

Montana's water rights adjudication effort is undergoing a performance audit by the Montana Legislative Audit Division. As part of that process, the Water Court's senior staff met with the legislative audit team on August 10, 2009 for an entrance conference. The audit team indicated that a draft report may be completed by January 2010 and that a final report is expected to be presented to the Legislative Audit Committee in early 2010. Presumably, the audit team would be available to appear before the EQC and Water Policy Committee.

In response to the 2009 legislative mandate to generate "vacancy savings," the Water Court has not filled a half time FTE position and in response to the suggestion of the Office of the Supreme Court Administrator, a few Water Court staff members have scaled back their hours to slightly less than full time.

The Water Court's primary focus is to work through its existing inventory of water right claims that have unresolved objections and other issues. The Court's goal is to draw down its current caseload to clear the decks 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 in 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 |
|-------|--|------------------|-----------------------------|
| 40H | Big Sandy Creek | 797 | 104 |
| 40O | Milk River Below Whitewater Creek | 3306 | 1369 |
| 40Q | Poplar River | 2080 | 52 |
| 40S | Missouri River Below Ft. Peck Dam | 2966 | 483 |
| 41D | Big Hole River | 3892 | 2268 |
| 41O | Teton River | 2524 | 1278 |
| 41QJ | Missouri River from Holter Dam to Sun River | 2445 | 844 |
| 42B | Tongue River above and including Hanging Woman Creek | 1345 | 569 |
| 42C | Tongue River below Hanging Woman Creek | 4689 | 1186 |
| 42KJ | Yellowstone River between Bighorn and Tongue Rivers | 4767 | 915 |
| 43Q | Yellowstone River between Clarks Fork Yellowstone and Bighorn Rivers | 2473 | 242 |
| 76HF | Westside Subbasin - Bitterroot River | 3774 | 229 |